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THE ORIGIN AND DEVELOPMENT OF THE OFFICE OF SHERIFF OF MADRAS

ISSUED BY
COMMISSIONER OF ARCHIVES AND HISTORICAL RESEARCH
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On

Origin and Development of

the office of Sheriff of Madras

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Document No.6

THE ORIGIN AND DEVELOPMENT OF THE OFFICE OF SHERIFF OF MADRAS

(For Official Reference and for Research Scholars)

Issued

By

Commissioner

Tamil Nadu Archives and Historical Research

Government of Tamil Nadu

1981

...MARA P... 190 ... MADRAS

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PREFATORY NOTE

This Select Document on "The Origin and Development of the Office of Sheriff of Madras" is issued in pursuance of the orders of Government in their G.O.Ms.No.1515, Education, dated 15.7.1976.

Select Documents are intended to present in one place all the important papers relating to particular matters of historical importance found among the records kept in the Tamil Nadu Archives in a ready and handy form with an historical introduction to facilitate interpretation by the scholars. The records are presented as they are. This document does not attempt to express any views or suggestions.

To facilitate reference a "chronological table of events" and a 'summary of records' are also given

This document on 'The origin and Development of the office of Sheriff of Madras' attempts to furnish as briefly as possible the history of the origin, growth, powers, functions, etc, of the 'office of the Sheriff of Madras'

I do hope that this document will be of use to the departments of Government, and Research workers alike.

M.VENKATACHALAM
COMMISSIONER.

Tamil Nadu Archives,
Egmore, Madras-8

Dated 3 January 1982.

HISTORICAL INTRODUCTION

The Office of the Sheriff, called high Sheriff in England, is an ancient and picturesque office coming down from the Anglo-Saxon period.

Thiru P.R.Srinivasa Aiyangar, M.A., B.L., Advocate, Madras has in the Madras Terecentenary Commemoration Volume, 1939 states that "In the administration of justice and the preservation of the Kings peace in the Shires and Counties the Sheriff in the early days played a very important role and was a prominent figure in the Local Administration. As representing the interests of the crown against the local baronage the Sheriff executed the Kings writ and called out in an emergency the posse comitatus requiring the help of the local armed force or militia. In the exercise of his judicial functions he presided over the County and the Hundred courts and held the Sheriff's tourn as the King's deputy. In the early days the Sheriff was appointed by popular election but in course of time the right of appointment became vested in the crown, hereditary offices being abolished finally by 1850. The office is now of an honorary nature, the appointment being an annual one made by the King in Council out of the list of names nominated by the chancellor of the Exchequer and the Judges of the King's Bench Division. Usually the Magistrate in the County is nominated, peers, clergy, officers in

active service, practising barristers and solicitors, etc., being exempted. The most important of the administrative duties now falling on the Sheriff is attendance on the Judges at assizes and election petitions, a function attended with old time pomp and ceremony. Besides execution of writs the Sheriff prepares the panel of jurors and nominally has the duty of Summoning the Posse Comitatus. His Judicial duties now remain in a very attenuated form, the Civil Jurisdiction having been superseded by that of modern courts and the Criminal jurisdiction by the justices of peace at the petty sessions. His duties as conservator of the King's peace are now discharged by the Police.

When the English first established their ~~steele~~ Settle-ment at Madras they found the indigenous village system established there. Madras, then a small fishing village, had a headman or Athikari, an accountant or Kanakka Pillai, Watchman or Peddanaick.

The athikari was the executive head administering justice to the local inhabitants holding his court at the choultry or Town house, while the Peddanaick with a number of talaiaris or peons under him arrested wrong doors and made himself generally responsible for the policing of the place. By 1661 under the charter of the year the office of athikari was abolished and the agent became Governor with power to administer civil and criminal law, while the Peddanaick's office continued down to the early part of the 19th century".

Like many other institutions the office of the Sheriff is an English institution imported into the presidency towns of India. Its origin in Madras goes back to the year 1727. The Royal charter of 24th September 1726 granted by King George-I, provided for the establishment of Sheriff of Fort St.George and Town of Madraspatnam. The first incumbent was to execute and make return of all process of all courts erected by the Letters patent of that year viz 1726;

1. The Mayor's court, with original civil jurisdiction in Madraspatnam or within any of the subordinate factories.

2. The Appellate civil court of the Governor and Council and

3. The sessions Court of the Governor and the five senior members of Council, for the trial of all offences committed within Madraspatnam, Fort St.George, Fort St.David, Vizagapatnam, the factories on the coast of Sumatra and all other subordinate factories, or within ten English miles of any of the same respectively.

To these three judicatories, the letters patent of 26 Geo.II (A.D.1753) added a fourth, viz,

4. A court of Requests for suits not exceeding twenty rupees, and of this court also the Sheriff was the process server.

At first, he was remunerated by his fees, but subsequently a salary was added, and when the present High Court was erected in 1862, he was receiving a salary of Rs.550/- a month; besides as much more in fees, while his Deputy received a further salary of Rs.240/- a month, besides certain small fees. The change then made resulted in a considerable saving.

The fees were to go to the public Treasury, and the Sheriff to receive a salary of Rs.920/- a month, out of which he was to pay his own Deputy, the establishment and office contingencies being borne as theretofore, by Government. The Government appointed the Sheriff, and his officers and establishment he should himself appoint and answer for, as it was believed he had invariably done, though since June 1863, the Pay of the establishment had been drawn through the Registrar of the High Court, apparently merely because the Sheriff and his establishment were included in the Statement of "Establishment of Ministerial Officers, Clerks, and servants sanctioned for the High Court of Judicature at Madras."

The Sheriff's functions are of a two-fold character. He has to perform certain formal or ornamental duties such as calling public meetings and attending Sessions and other public ceremonies and he is at the same time the head of the Process serving and execution staff of the High Court. The theoretical responsibility of the Sheriff is believed to be part of the common law borrowed from England. It was determined in G.O.776, Finance dated 7.8.1886 to abolish the office of Sheriff as a paid appointment, and a proper process establishment organized under a Nazir or other head, who would perform the same duties as the present Deputy Sheriff. It was then suggested to the Finance Commission of 1886 as follows:

1. ~~to abolish by legislation the~~ office of Sheriff and to provide for the work being done by a Government Officer, or

2. to make the office of Sheriff, honorary, and to provide for the work being done by a Deputy appointed and paid by Government or

3. to appoint a paid officer of Government to be Sheriff without extra remuneration. The Government of India decided that there should be no legislation, that the Sheriff must be a paid officer and that the office should be worked without loss to the Government. The question was under consideration for a long time.

It was considered as early as in 1891 that the Shrievalty was a useless and antiquated sinecure and that the Post might be abolished. The Government of India were against the abolition of the Post as they considered it contrary to Law. The Government of Madras then reiterated its former opinion that the liability to Government, Consequent on the abolition of the Sheriff's Post and the entrustment of the execution of the High Court processes to the Deputy Registrar of the High Court, was not a matter of much moment, that no difficulty on this account was experienced in the mofussil and that there was no reason why it should arise in Madras, that the ceremonial duties of the Sheriff were of no importance and that such of them as might subsist on the abolition of the Shrievalty could very well be performed by the President of the Municipality (Probably corresponding to the present Mayor of Madras) and that the duty of summoning jurors etc., might be tacked on to the Deputy Registrar of the original side of the

High Court. In the past, the abolition of the post of Sheriff seems to have been contemplated only due to the large drain on the general revenues by the maintenance of the Sheriff and his office. In 1923, in connection with the reorganisation of the Sheriff's office, the then Sheriff of Madras, Sir M.Ct.Muthiah Chettiar, made certain proposals which were referred to the Judicial retrenchment Committee which considered among other things, that the Post of Sheriff should be an honorary one, that the entire proceeds from fees, commission etc. levied by the Sheriff should be credited to the Government and that processes should be served by an establishment attached to the High Court, the present establishment placed under the Sheriff being transferred to the High Court. The Government after consultation with the High Court decided that with effect from 1st September 1924, the post of Sheriff shall be honorary, the monthly contribution of Rs.500/- then made from the provincial Revenues being discontinued from that date. The Government have taken over the whole of the establishment of the Sheriff's office and retained the fees which are collected for various services performed by that office. The Sheriff's establishment including the Deputy Sheriff was made pensionable and provincialized. The process serving work and the execution of writs, over which the Sheriff had a direct control and for which he was held personally responsible has been taken away from him by the appointment of a permanent Deputy Sheriff in 1924. The Deputy Sheriff is responsible for the quick and efficient

service of processes and the execution of warrants and the general Supervision of the working of the Sheriff's office. The emoluments of office, the Sheriff's fees which the Sheriff once received and with which he had to run the office are now credited to the Government. In 1949, the Government have considered the abolition of the post of Sheriff of Madras but ultimately decided negatively for the abolition of the post. The post of Sheriff was being followed up every year by the Government by appointing a prominent personality of the City and on an honorary basis. The first Indian to be nominated as Sheriff was Sir S.Ramaswami Mudaliar, Rao Sahib Kt.C.I.E., who was the Sheriff for the years 1886 and 1887. Dewan Bahadur M.Balasundaram Naidu, C.I.E., was the hundredth Sheriff. In the year 1957, Government ordered the integration of the Non-gazetted staff in the office of the Sheriff of Madras with the regular establishment of the High Court service. Today it is said that the Sheriff has merely become a picturesque functionary with purely ceremonial duties and that the revival of the office of the Mayor in 1932 has thrown the Sheriff into the background in that the Mayor is given precedence to the Sheriff.

<u>The Sheriff's seal</u>

A special seal for the use of the Sheriff was sanctioned in 1745 and the President and Council directed

"that the device on it be the Maces crossed on the Sword in a Mashle, with Sheriff of Madraspatnam in the circle round it". This appears to be the seal in use at the present day. The words contained in the present Seal are the Sheriff of Madraspatnam.

CHRONOLOGICAL TABLE

Date 1	Month 2	Year 3	Particulars 4
..	..	1726	The establishment of Sheriff of Fort St.George and Town of Madraspattinam was granted and provided under the Royal charter of 24.9.1726 by King George I (Letters Patent)
..	..	1800	The duties of Sheriff of Madras was continued to be same (i.e) under letter of Patent. The Sheriff executed and made return of all process issued by all the courts.
24th	July	1875	The question whether the Sheriff's accounts should be audited for the protection of suiters has been considered and decided that the audit will be limited to the account of fees received by the Sheriff for Government. It was ordered that the Accountant General will arrange for the audit at the close of each Sherivalty year.
..	..	1875	The Sheriff of Madras was authorised to draw the pay of his establishment direct, instead of through the Registrar of Court.
..	..	1875	A Committee, consisting of certain officers was formed to enquire and report whether the present establishment of Sheriff of Madras is in excess of the requirements and report any modification.

1	2	3	4
3rd	December	1862	At first the Sheriff of Madraspattinam was remunerated by his fees, but subsequently a salary was added, and when the High Court was erected in 1862 he was receiving a salary of 590 rupees a month besides as much more in fees. His deputy received a further salary of Rs.240 p.m. besides certain small fees.
23rd	May	1863	A change in the salary of Sheriff of Madras was given effect. According to the change the fees were to go to the Public Treasury and the Sheriff to receive a salary of Rs.920/- a month, out of which he was to pay his own Deputy. The establishment charges were borne by Government.
..	..	1879	The Governor in Council considered the question of abolition of Shrievalty and requested the Hon'ble the Judges of the High Court to State what they would propose if the office of Sheriff was abolished for carrying out the duties and at what cost.
..	..	1879	The annual receipts of the Office of the Sheriff and charges of his office from 1862 to 1878 (17 years) were collected and examined, when the question of abolition of the post was taken up, The salary received by the Sheriff was also indicated.

1	2	3	4
..	..	1884	The question of abolition of the Office of Sheriff again considered and dropped.
17th	November	1888	Government of India's suggestion to fix a pay for Sheriff of Madras etc., were examined and decided to be impracticable.
26th	October	1892	Government of India sanctioned the continuance of the appointment of Sheriff of Madras and on existing terms.
16th	November	1905	Proposal by Sheriff of Madras to alter the salaries of his Manager and Accountant approved by Government.
31st	October	1913	Sheriff's proposals to increase the pay of his staff negatived by Government.
13th	April	1915	Distribution of Jury service by the Sheriff of Madras examined and orders passed.
25th	August	1924	Reorganisation of the Office of Sheriff of Madras and the post treated as honorary.

1	2	3	4
24th	February	1934	Appointment of Sheriff of Madras-authority under the new constitution decided.
18th	December	1948	Uniform used by Sheriff of Madras on ceremonial occasions - decision by Government.
14th	October	1949	The question of abolition of Shrievalty in Madras considered and deferred.

--XIII--

SHERIFF OF MADRAS

Summary of Documents

Sl. No. 1	G.C.No. & Date 2	Subject of the G.O. 3
1.	G.O.Ms.No.1807, Judicial, dt.16.11.1905	Office of the Sheriff of Madras - Proposals of the Sheriff of Madras for appointing and altering the salaries of Manager and the Accountant of his office.
2.	G.O.Ms.No.2179, Judicial, dt.31.10.1913	Sheriff's establishment - stating that the Government are unable to sanction the proposals of the Sheriff of Madras to increase the pay of the members of his office establishment and inviting his attention to G.O.No.612, Judicial, dated 27.4.1908.
3.	G.O.No.767-769, Judicial, dt.13.4.1915	Sheriff of Madras - Passing orders on letter from Sheriff on the subject of the complaints made and on the subject of distribution of the Jury service among these on the list by the Madras Chamber of Commerce and the Madras Trades Association.
4.	G.O.No.2387, Law General, dt.25.8.1924	Sheriff of Madras - Post treated as honorary - Establishment - Reorganised.

1	2	3
5.	G.O.No.177, Public(Reforms) dt.24.2.34	Reforms - Sheriff - Appointment of - Authority under the new constitution.
6.	G.O.No.4531, Home, dt.8.12.48	Sheriff of Madras - Uniform used on Ceremonial occasions use of Super Fine Black Khadi instead of Black serge of velvet - Orders passed.
7.	G.O.No.4092, Home, dt.14.10.49	Shrievalty - Abolition of Sheriff of Madras - Question deferred.

Extract taken from G.O.Ms.No.1807, Judicial, dated 16.11.1905   Pages 3 to 5 & 12

Sheriff's Office
High Court
Madras 14th October 1905.

From

C.J.Higgs Esquire,
The Sheriff of Madras.

To

The Chief Secretary to Government,
Judicial Department,
Ootacamund.

Sir,

The Government in its Order dated the 8th November 1898, No.1724, Judicial having sanctioned the reduction of the Sheriff's Establishment according to a scale proposed by Mr.Firth, the then Sheriff, the clerical staff which consisted of a -

1 Manager on Rs.110 per mensem
1 Deputy Manager on Rs.50 "
1 Head Clerk on Rs.35 "
and 1 Clerk on Rs.23 "

was reduced by the abolition of the 2nd and 4th appointments and the designation of the Head Clerk altered to that of Accountant.

2. The office of Manager fell vacant on the 23rd of last month by the resignation of the late incumbent and on the 1st instant I filled the vacancy up. As I am desirous of raising the status of the post of Accountant and reducing the great disparity which exists between the pay of the Manager and the pay of the Accountant (Rs.35), I have the honor to propose for sanction of Government that the pay of the

former be reduced by Rs.10 in the pay of the latter raised by that amount with effect from the 1st October (Instant). The latter official is a young man and cannot hope to be promoted to Manager for some time, but he has worked well and deserves some encouragement. I also think it desirable in the interest of the office that the post of Accountant should carry better pay than it does at present and I therefore recommend that his pay be raised by Rs.10 per mensem. His duties are of a responsible nature. In filling the Managership I made the present incumbent understand that I intended proposing the reduction of the pay from Rs.110 to Rs.100 and he accepted the appointment on these terms. My proposal, it will be observed, will not affect the present numerical strength nor the total cost of the Establishment to Government. Early orders are solicited.

3. The usual Proposition statement is attached.

I have the honor to be,
Sir,
Your most obedient servant,

Sd/ C.J.Higgs
SHERIFF OF MADRAS.

Judicial Current No.4955

JUDICIAL DEPARTMENT.

Subject: Forwarding for the sanction of Government proposition statement received from the Sheriff of Madras.

Station Madras Dated the 30th October 1905.

From (Name) W.Dobbia Esq.,

(Designation) Accountant General

To

The Chief Secretary to the Government of Madras.

Sir,

In forwarding the enclosed proposition statement received with Endorsement No.229, dated 24th October 1905, from the Sheriff of Madras, I have the honor to state that the entries in the column "Present Scale" have been compared with the Registers of this office and are correct.

2. There is no audit objection to the proposal being sanctioned by Government.

I have the honor to be,
Sir,
Your most obedient servant,
Sd/xxx
Asst. Accountant General.

ORDER:
Mis No.1807 dt.16.11.1905.

The Sheriff's proposal to alter the salaries of the Manager and Accountant of his office is approved and the proposition statement is sanctioned.

Sd/xxx
8.11.05

Extract taken from G.O.Ms.No.2179, Judicial dated 31.10.1913

(Pages 1 to 6 cf. and pages 1 to 4 nf.)

Subject: Sheriff's Establishment.

Stating that the Government are unable to sanction the proposals of the Sheriff of Madras to increase the pay of the members of his office establishment and inviting his attention to G.O.No.612, Judicial, dated 27th April 1908.

GOVERNMENT OF MADRAS

Judicial Department.

Read - the following papers:-

I

G.O.No.612, Judicial dated 27th April 1908.

II

Letter - from C.G.Mackay, Esq., I.C.S., Acting Registrar, High Court.

To - the Chief Secretary to Government (through the Accountant-General)

Dated - Madras, the 12th August 1913.

No.R.O.C.1396.

I am directed to forward, for the orders of His Excellency the Governor in Council, letter Dis.No. 83, dated 19th April 1913, from the Sheriff of Madras in which he proposes an increase of pay to his establishment of Rs.46 a month. He recommends the addition to its pay on account of the increase of work mainly due to the new insolvency rules. As the Sheriff's fees have increased at the same time, he is prepared to forego an amount equal to that by which it is proposed to increase the grant made for his establishment. The Hon'ble the Chief Justice supports the recommendation made by the Sheriff and I am to request that the proposed increase of pay may be sanctioned.

ENCLOSURE

Letter - from Khan Bahadur M.A.Kuddus Badsha Sahib Bahadur, Sheriff of Madras.

To - the Chief Secretary to Government (through the Accountant General and the Honourable the Chief Justice, High Court, Madras).

Dated - the 19th April 1913.

No.D.83.

I have the honour to submit, for the kind and favourable consideration of Government, the following proposals for the increase of the pay of the Sheriff's establishment.

2. I have the honour to bring to the notice of the Government that the work of the Sheriff's office has been increasing steadily since August 1905, owing to the introduction of the insolvency work under the new rules of 1905 framed by the High Court. The insolvency processes were, under the old rules, executed by the Attorneys concerned or their clerks; but the work has now devolved on the establishment of this office. The fees received on insolvency processes alone were as follows:-

	Rs.	A.	P.
August to December 1905	261	4	0
In 1906	1,321	2	0
" 1907	1,735	12	0
" 1908	1,596	4	0
" 1909	1,915	12	0
" 1910	1,525	4	0
" 1911	1,781	12	0
" 1912	1,513	4	0
January to March 1913	418	4	0

amounting to Rs.12,068-10-0 for seven years and eight months or an average of Rs.132 per mensem, while the fees on other processes from both the Original and Appellate Sides of the High Court, Crown Side, etc., amounted to Rs.24,998-8-0 for the same period or an average of Rs.272 per mensem. This latter amount added to the allowance paid from general revenues, minus cost of the establishment, i.e., Rs.209 and odd, makes a total of Rs.481 per mensem on an average.

3. When G.O.No.1724, dated 8th November 1898, was passed, I submit, it was not anticipated that the extra work entailed by the insolvency processes would be thrown on the Sheriff's establishment, a work which brings in on average Rs.132 per mensem. The fees collected on other processes, taken into consideration by the then Sheriff, Mr.Firth, in his letter to Government, dated the 17th September 1898, were on an average Rs.250 plus the balance allowed by Government from Rs.500, namely, Rs.218, making a total of Rs.468 per mensem on the average. But from the figures given above it is evident that the Sheriff's fees from all sources, including insolvency work, amount to an average of Rs.404 plus the Government allowance of Rs.209 and odd or Rs.613 per mensem nett. The present staff, both clerical and executive, have great difficulty in coping with the increase of work imposed upon them.

4. A representation was made by my predecessor, Mr. W. B. Smith, in 1908, in which the sanction of Government was solicited to increase the pay of European and Native bailiffs and the peons of this office, in his letter No. 37, dated the 21st February 1908, and Government, in their order No. 612, Judicial dated the 27th April 1908, opened "that any extra establishment which the Sheriff may require should be employed on a Non-pensionary footing and be paid from the extra fees which the Sheriff receives from the service of insolvency notices." I beg leave to submit that the insolvency work is an increasing factor in the work of establishment, recurring throughout the year and the Insolvency Court sits not once a fortnight as before, but almost every week in a month or even for some days in a week and I think that time has arrived when a permanent establishment should be entertained for the work which continues steadily to increase. The High Court clerical establishment has recently been largely added to in order to cope with the extra work thrown upon it, consequent upon the addition to the Bench. A review of fees from 1900 since the reorganization of the Sheriff's establishment, as given in the margin, will show that the

General fee receipt of the Sheriff from the year 1900.

		Rs.	A.	P.
1900	"	3,201	2	0
1901	*	2,624	14	0
1902	"	2,215	0	0
1903	"	2,016	0	0
1904	"	2,492	0	0
1905	"	3,152	8	0
1906	"	4,386	2	0
1907	"	4,097	8	0
1908	"	4,513	0	0
1909	"	5,022	8	0
1910	"	4,918	10	0
1911	"	4,853	4	0
1912	"	5,648	14	0
January to March 1913		1,324	12	0

work on the Original Side has been increasing. Appeal notices from the decision of the muffassal Courts and Original Side appeals are pouring into this office in large numbers.

5. In addition to the daily work, the establishment is fully engaged upon work in connection with the criminal sessions for over a month in every quarter. Extra special jurors have frequently to be summoned, when there are heavy session cases on the file, which further increase the work of both the clerical and executive staff. The clerical establishment is also engaged for more than a month every year in sending requisitions for the preparation, and in the compilation, of jury lists. In former years a contingent allowance of about Rs.60 was granted to Government for the preparation of jury lists for the clerical labour involved. This allowance was discontinued since the year 1900.

6. I have the honour to request that considering the limited character of the present clerical establishment, consisting of a manager and an accountant, and amount of clerical labour devolving on these officials and the amount of processes which the bailiffs have to execute, the Government will be graciously pleased to reconsider their order referred to above, and sanction my proposal for the increase of pay of the over worked establishment. This extra expenditure will have to be met from the sum of Rs.209 and odd now paid to the Sheriff, after deducting the cost of the present

establishment from the allotment of Rs.500. It will not affect prejudicially, in as much as the Sheriff's receipt from the fees collected on account of insolvency processes alone have averaged, as shown above, Rs.132 per mensem. If the Sheriff's Government allowance be reduced by Rs.46, he will be practically benefited by about Rs.86 on the other hand.

7. In recognition of the extra work involved, my predecessor, Mr.A.E.Lawson, was kind enough to pay the staff out of the fees received in the office as follows:-

	Extra allowance paid by the Sheriff			A portion now proposed to be added to their pay		
	Rs.	A.	P.	Rs.	A.	P.
Manager	18	0	0	10	0	0
Accountant	7	8	0	5	0	0
One European bailiff	17	8	0	10	0	0
One " "	17	0	0	10	0	0
One Native "	6	8	0	3	0	0
One " "	5	8	0	3	0	0
One head peon	4	0	0	2	0	0
Two peons	1	0	0	1	8	0
		each			each	

and, on the eve of his retirement, he left a note expressing his desire that the same be continued by his successors. As I am of opinion that they deserve this allowance, I have been paying the staff at the same rate, as recommended by my predecessor, but as I apprehend that some succeeding Sheriff might discontinue

to pay, I request, in the interest of the office, that Government would sanction the small amount of increase proposed in the proposition statement. During my tenure of office I will continue to pay the staff the balance of allowance according to the scale paid by my predecessor and, as I do not wish to bind my successor to pay the full allowance, it is left to him to pay this extra allowance or not.

8. By G.C.No.1724, Judicial, dated the 8th November 1898, the pay of the manager was fixed at Rs.110, but it has been reduced to Rs.100 by Government in their order No.1807, dated the 16th November 1905, on the recommendation of Mr.C.J.Higgs, the then Sheriff. I have to mention that the work and responsibility of the manager have not decreased, but have, on the contrary, materially increased, especially so by the addition of the insolvency work referred to. The present manager is a capable and efficient officer and in my opinion deserves encouragement. In view of the general policy of increasing the salaries of the clerical staff in all Government offices owing to the enhanced cost of living, I consider that the pay of my establishment might, with advantage, be increased to afford encouragement and additional incentive to cope with onerous duties now involved.

9. I enclose the usual proposition statement (in duplicate) and request the favour of sanction.

Sub enclosure

Statement of proposition for revision of establishment

Order sanctioning present establishment: Number	Order sanctioning present establishment: Date	Office to which the proposition refers	PRESENT SCALE: Number	PRESENT SCALE: Designation	PRESENT SCALE: Pay: Minimum	PRESENT SCALE: Pay: Increment	PRESENT SCALE: Pay: Maximum	Nature of: Average cost
1	2	3	4	5	6	7	8	9
							Rs. A. P.	
No. 1724 Judicial	8th November 1898	Office of the Sheriff of Madras	1.	Manager	..	..	100 0 0	..
			1	Clerk and Accountant	..	..	45 0 0	..
			1	European bailiff	..	..	50 0 0	..
			1	-do-	..	..	40 0 0	..
			1	* Native bailiff	..	..	13 0 0	..
			1	-do-	..	..	12 0 0	..
			1	Peon	..	..	7 0 0	..
			1	-do-	..	..	7 0 0	..
			1	-do-	..	..	7 0 0	..
			1	Sweeper	..	..	1 12 9	..
			10				282 12 9	

* P.Perumal Nayudu, a native bailiff of this office, who is now on extension of service and who has been drawing his pay at Rs.13 per mensem by the Order of Government No.1073, Judicial dated 6th August 1900, will continue to do so till his retirement. His successor will draw pay at Rs.12 per mensem and the increase asked for, if sanctioned.

charge									Proposition	
		Proposed Scale							Permanent	
		Pay								
Number	Designation	Minimum	Increment	Maximum			Average cost	Increase per month	Decrease per month	Grounds of proposition
10	11	12	13	14			15	16	17	18
				Rs.	A.	P.		Rs. A. P.		
1	Manager	..	..	110	0	0	..	10 0 0	..	Vide Sheriff's office letter D.No.83, dated 19th April 1913
1	Clerk and Accountant	..	..	50	0	0	..	5 0 0	..	
1	European bailiff	..	..	60	0	0	..	10 0 0	..	
1	-do-	..	..	50	0	0	..	10 0 0	..	
1	Native bailiff	..	..	15	0	0	..	3 0 0	..	
1	-do-	..	..	15	0	0	..	3 0 0	..	
1	Peon	..	..	9	0	0	..	2 0 0	..	
1	"	..	..	8	8	0	..	1 8 0	..	
1	"	..	..	8	8	0	..	1 8 0	..	
1	Sweeper	..	..	1	12	9 **	..	.. .. ..	..	
10				328	12	9		46 0 0		

** Sheriff's letter D.No.83/R dated 29th August 1913.

7 DEC 1982 ... 600008

III

Endorsement of the Accountant-General, No.Cud.P.A. 10620, dated 9th September 1913.

Forwarded.

2. The entries in the column "Present scale" have been compared with the audit registers of this office and are correct.

3. There is no audit objection to the proposal being sanctioned by Government.

J.C.MITRA,

Offg. Accountant-General.

To the Chief Secretary to Government.

Order - No.2179, Judicial, dated 31st October 1913.

The Government have carefully considered the Sheriff's proposals to increase the pay of the members of his office establishment, but regret that they are unable to sanction them.

2. The attention of the Sheriff is drawn to paragraph 3 of G.O.No.612, Judicial, dated 27th April 1908.

(True extract)

W.O.HORNE,

Ag. Chief Secretary.

Notes connected with G.O.No.2179, Judicial, dated 31st October 1913.

(Subject:- Increase of pay to the members of the Sheriff's establishment)

Previous papers:

G.Os.	271-72	Judicial	dt.24th	February	1897
G.O.	1373	"	dt.20th	September	"
G.Os.	1782-83	"	dt.16th	December	"
G.O.	348	"	dt.28th	February	1898
G.O.	627	"	dt.19th	April	"
G.Os	1242-43	"	dt.9th	August	"
G.O.	1724	"	dt.8th	November	"
G.O.	75	"	dt.11th	January	1899
G.Os	757-58	"	dt.13th	May	"
G.O.	966	"	dt.20th	June	"
"	1188	"	dt.31st	July	"
"	735	"	dt.25th	May	1900
"	933	"	dt.7th	July	"
"	1073	"	dt.6th	August	"
G.Os	1066-67	"	dt.6th	July	1905
G.O.	1653	"	dt.12th	October	"
"	1807	"	dt.16th	November	"
"	725	"	dt.30th	April	1906
"	211	"	dt.6th	February	1908
"	609	Revenue	dt.28th	"	"
"	903	"	dt.30th	March	"
"	999	"	dt.7th	April	"
"	612	Judicial	dt.27th	"	"
"	87	"	dt.20th	January	1912
"	1571	"	dt.2nd	October	"

From the Registrar, High Court, dated 12th August 1913, R.C.C.No.1396/13.

Endorsement by the Accountant-General No.Cud.P.A. 10620, dated 9th September 1913.

Under Secretary -

The Sheriff of Madras has submitted proposals to increase the pay of the members of his office establishment, on the ground that the work of his office has been steadily increasing from the year 1905, mainly due to the introduction of the insolvency work under the new rules of 1905 framed by the High Court. The proposals involve an extra expenditure of Rs.46 per mensem.

2. Attention is requested to paragraph 2 of Judicial department note on page 1 of notes to G.O.No .612, Judicial, dated 27th April 1908, where a short resume of the history of the Sheriff's establishment as sanctioned by the Government of India is given. The present proposal of the Sheriff exceeds the limit* prescribed by the Government of India in their letter No.1010, dated 11th July 1899. The extra expenditure involved will be met from the balance of the monthly contribution at the disposal of the Sheriff and will not be an extra cost on the State. But the Government will have to bear the increase in the pensionary charges.

* Rs.282 per mensem

Page 6 of G.O. 1188, Judicial dated 31st July 1899

3. According to the scale sanctioned in G.O.No.1724, Judicial, dated 8th November 1898, the manager in the Sheriff's office was drawing a

Pay of Rs.110 per mensem and the clerk and accountant, Rs.35. But, in the year 1905, at the instance of Mr.C.J. Higgs, the then Sheriff, who wanted to reduce the great disparity that existed between the pay of the manager and that of the accountant, the Government reduced the pay of the manager to Rs.100 and raised that of the Accountant to Rs.45. The present Sheriff wants to raise their pay to Rs.110 and Rs.50, respectively,

Vide para 2 of his letter 220, 14th October 1905 on page 3 of G.O.1807 Judicial, 16th November 1905.

G.O.1807, Judicial, 16th November 1905.

4. The question of increase of pay to the bailiffs, for reasons similar to those now stated in the Sheriff's letter, came up before Government in 1908 and was vetoed. The Government then observed that additional * establishment would seem to be necessary inconnection with insolvency work, and that any extra establishment which the Sheriff might require should be employed on a non-pensionary footing and be paid from the extra fees which the Sheriff receives from the service of insolvency notices.

G.O.612, Judicial, 27th April 1908.

* Not additional pay vide the Hon'ble Mr.G. Stokes' note, dated 26th March 1908, on page 2 of the notes ibid.

5. The present proposals, if sanctioned, should, perhaps, be submitted to the Government of India for confirmation - vide Accountant-General's note, dated 11th April 1908, on page 2 of notes to G.O.No.612, Judicial, dated 27th April 1908.

For orders. The case may go to Financial for favour of remarks.

T.K. 18.9.13.

C.V. 25.9.13.

The existing establishment (with its pay) is -

Appointment		Cost per mensem Rs.
1 Manager (100)	..	100
1 Clèrk and accountant (45)	..	45
2 European bailiffs (50),(40)	..	90
2 Native bailiffs (13) (12)	..	25
3 Peons (7)	..	21
Total *		281

* Excludes charges for sweeper.

Deputy Secretary -

This establishment was in existence in 1908 when the then Sheriff came up for enhanced pay to bailiffs on account of the work occasioned by the insolvency rules. A reference to the fees collected on account of this work will show no increase -

		Rs.	A.	P.
1907	..	1,735	12	0
1908	..	1,596	4	0
1911	..	1,781	12	0
1912	..	1,513	4	0

and the pinch, if any, must have been equally appreciable in 1908 when no question of a general rise in the pay of the establishment was mooted.

The real reason for this application is that Mr. A. E. Lawson has been paying money out of his own pocket, without any reference to Government, who in 1908 stated in unmistakable language:-

" It is observed from the Sheriff's letter that additional establishment is necessary in connection with insolvency work". The real remedy for increased work, as Sir G. Stokes pointed out in his note, dated 26th March 1908, is "increased establishment not increased pay." I submit that the Government must decline to recognise Mr.Lawson's private contributions or to allow their hand to be forced by this novel procedure.

The present Sheriff seems to realise this (paragraph 4), but then goes off at a tangent to increased pay.

2. There would be no objection to an appreciation to Government on the lines suggested in paragraph 3 of G.O.No.612, Judicial, dated 27th April 1908, and it will be seen from page 3 of G.O.No.1724, Judicial, dated 8th November 1898, that the Sheriff's establishment was formerly considerably larger. But I am afraid the unwarranted action of Mr.Lawson has seriously embarassed his successors and some disapproval should, I submit, be expressed.

T.J.T - 2.10.13

I agree that the arguments used do not justify an all round increase of pay. What Mr.Lawson should have done was to have added to his establishment on the terms proposed in paragraph 3 of G.O.No.612, Judicial, dated 27th April 1908. I should draw the Sheriff's attention to this pronouncement, and suggest that the access of work of which he complains should be so provided for. Viewed generally, and considering the dimensions of the staff, it seems to me that the scale of pay now drawn is sufficient.

A.J.C. 2.10.13

Financial Department

Assistant Secretary -

The conditions of service of the Sheriff's establishment, to whom an increase of pay costing in all Rs.46 per mensem, has been proposed by the Sheriff and the High Court on the ground of increase of work mainly due to the new Insolvency Rules, are as follows:-

G.O.1242, Judicial, 9th August 1898, and page 97, Civil Budget Estimate, 1913-14

(a) The Sheriff is allowed a fixed contribution of Rs.500 per mensem from general revenues, from which the cost of his establishment is met. The members of the establishment are treated as permanent Government servants entitled to pension from general revenues and the cost on account of their pay which is a primary charge on the fixed contribution to the Sheriff of Rs.500 per mensem is first met by the Accountant General and the balance is placed at the disposal of the Sheriff. The Sheriff is also permitted to retain the fees for the processes issued by him so that these fees and the balance of the monthly contribution from Government of Rs.500 per mensem for his total emoluments.

(b) Any increase in the charges on account of the Sheriff's establishment does not therefore throw any immediate liability on the State, but will ultimately throw increased pensionary expenditure.

Government of India letter 1010, 11th July 1899, on page 6 of G.O.1188, Judicial, 31st July 1899.

(c) The Government of India ruled in 1899 that the charges on account of the Sheriff's permanent establishment should not exceed Rs.282 per mensem -

* Page 3 of G.O. 1724, Judicial, 8th November 1898.

the cost of the reduced establishment as sanctioned in November* 1898 by this Government.

2. In the present case the Judicial department

** At an extra cost of Rs.46 per mensem. This would also require the Government of India's sanction - vide clause (e) ante and Accountant General's note on page 3 of notes to G.O. 612, Judicial, 27th April 1908.

consider that there is no case for the revision ** of pay as proposed by the Sheriff and the High Court; but that as decided in paragraph 3 of G.O.No.612, Judicial, dated 27th April 1908, additional establishments may, if necessary, be entertained on a non-pensionary footing and their cost met from the Sheriff's fees. This course will not involve any extra cost to the

Financial Department note, 17th April 1908, on page 3 of notes ibid.

State and does not also require the Government of India's sanction with reference to clause(e) ante. Judicial's proposals may, it is submitted, be accepted in Financial.

A. Savarinatha pillai 14.10.13
A. Hanumantha Rao 14.10.13

C. Reilly 15.10.13
Yes W.O. Horne 16.10.13

Under Secretary -

A draft order is submitted for approval.

T. Krishnamurti - 22.10.13

Deputy Secretary -

Should this not go to Honourable Member in Judicial ?

Honourable Member - T.J.T. 23.10.13

For approval

A.J.C. 24.10.13

H.A.S (Tuart) 29.10.13

Under Secretary -

May issue

C.V. 30.10.13 T.J.T. 31.10.13

(G.O.No.2179, Judicial, dt.31st October 1913)

Extract taken from G.O.No.767-769.Judicial dt.13.4.1915 Pages 1 to 13

Subject:

Sheriff of Madras

Passing orders on letter from the Sheriff of Madras - on the subject of the complaints made by the Madras Chamber of Commerce and the Madras Trades Association on the subject 'the distribution of the jury service among those on the list.

Government of Madras

Judicial Department.

Read - the following papers:-

I

Letter - from C.B.Simpson, Esq., Vice-Chairman, Chamber of Commerce.

To - the Secretary to Government, Judicial Department.

Dated - Madras, the 5th November 1914.

I have the honour to enclose copies of correspondence that has passed between the Chamber, His Lordship the Chief Justice of Madras and the Clerk of the Crown, with reference to the inconvenience and disabilities experienced by jurors summoned to attend the High Court Sessions, Some of these difficulties have been removed, and the Chamber trusts that the others will be removed in due course. In view, however, of the fact that the High Court does not propose to take any action in the matter of the representation made by the Chamber - that a permanent Deputy Sheriff be appointed under Government control, the Sheriff having reported that such appointment was unnecessary - the Chamber

begs that the Government will give the matter their most favourable consideration, and take such action as will secure the object which the Chamber seeks to obtain, viz., a continuity of system in the Sheriff's office and the permanent removal of the disabilities from which jurors have suffered for so long.

ENCLOSURES

(i)

Letter - from Sir HUGH FRASER, Kt., Chairman, Chamber of Commerce.

To - the Hon'ble Sir CHARLES ARNOLD WHITE, Kt., Bar-at-Law, Chief Justice, Madras High Court.

Dated - Madras, the 4th April 1914.

I have the honour to inform Your Lordship that this Chamber has received a copy of the letter regarding the inconveniences and disabilities experienced by jurors summoned to attend the Sessions which was addressed to Your Lordship on the 5th March, 1914, by the Madras Branch of the European Association. As the Association has gone fully into the matter, it is needless for the Chamber to do more than state that it is entirely in accord with the views of the Association, and ventures to hope that Your Lordship will be so good as to institute an enquiry into the grievances complained of, and introduce such remedial measures as will contribute to the comfort and convenience of jurors.

Sub-enclosure.

Letter - from the Hon'ble Mr. A.D. JACKSON,
President, Madras Branch,
Europeans Association.

To - the Hon'ble Sir CHARLES ARNOLD WHITE, Kt.,
Bar-at-Law, Chief Justice,
Madras High Court, Madras.

Dated - Madras, the 5th March 1914.

The Madras Branch of the European Association wishes respectfully to bring to your notice the inconveniences and disabilities which European jurors, both special and common, suffer when called upon to attend the Madras High Court.

1. It appears to this branch of the Association that the selection of Jurors for the sessions is not carried out with sufficient care, particularly with regard to special jurymen.

It would seem that no regular method of summoning jurymen is in force with the result that some are called upon to serve nearly every year whilst others escape for periods of several years at a time.

This Association has collected a considerable amount of evidence on this point and can submit several instances where jurymen have been summoned practically every year for several years past, whilst instances of three summons in four years and even four in five years are comparatively common.

This the Association considers is a very real hardship. To members of the non-official community time is, in very many instances, money, and attendance at the High Court, means actual personal loss to themselves or their employees to say nothing of the inconvenience and annoyance which attendance on a jury involves.

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2. The Association would further bring to your notice the conditions under which jurymen serve and the inconvenience to which they are subjected when actually in the High Court.

They are as a rule summoned half an hour before they are required. When a jury has been empanelled the remaining jurymen are often kept hanging about the Court for hours at a time.

There are no proper retiring rooms, Much less rooms where they can read, write or obtain refreshment.

It is a common occurrence to be summoned for 11 A.M., kept for an hour - not to be called for a jury told to return at three, kept for another half an hour or so and then told to return next morning and so on da capo for three or four days.

An instance actually occurred at the last Sessions when the jurymen were told to attend Court in the after noon and on arriving there, were told the judge was not sitting as he was giving a garden party.

It is not necessary to multiply instances of the lack of consideration shown to jurors by the Courts - the Association has collected evidence enough to satisfy themselves that the grievances set forth are very real, which it will be happy to put forward should any doubt be thrown on the point.

3. This Association whilst fully recognizing the obligations of the non-official Europeans community towards the Courts respectfully suggest -

(1) That steps be taken to ensure a more equitable distribution of jury service.

(2) That more consideration be paid in future to the personal convenience of jurors summoned for the Sessions by informing them, as far as possible, both in open Court and through the Press when their services will not be required.

The Association considers that a great deal of the time wasted by those summoned to serve on juries could be saved by a little forethought on the part of those responsible for the work of the Court.

Finally the Association would ask whether it be not possible to make some provision in the High Court for the convenience of gentlemen summoned but not actually called for juries.

At the present they have no where to sit and are obliged to loiter about the Courts or verandahs.

In putting forward this question of the treatment of jurymen the Association would point out that the work of a juryman is entirely voluntary - his services to the State in this capacity are a direct tax on him in both time and trouble and they feel that the State on its part should recognise this and so far as is in its power make the services as little onerous as possible.

(ii)

Letter from G.S.WHITE, Esq., Clerk of the Crown
To - the Chairman, Chamber of Commerce, Madras
Dated - Madras, the 7th April 1914.
No. 201.

In reply to your letter, dated the 4th instant, on the subject of the inconveniences and disabilities experienced by jurors summoned to attend the Criminal Sessions of this Court addressed to the Honourable the Chief Justice, I have the honour to state that an enquiry has been instituted and that steps will be taken to secure, as far as practicable, the comfort and convenience of the jurors.

In this connection I have the honour to state that the revised jury lists for the year 1914-1915 will be published in the issue of the Fort St.George Gazette for the 14th instant and the final list in the issue of the 28th instant and in the event of your Chamber desiring to make any suggestions for addition of names therein or desiring to put forward claims for service on the special jury I shall be glad to adopt a suggestion, made by your Chamber some years ago to the Sheriff of Madras, to depute a committee to assist in revising the lists of jurors, and for that purpose I have the honour to state that I shall be prepared to meet the committee on Saturday, the 18th instant, at 11 A.M. to receive and consider their suggestions. I am anxious to make the jury lists as complete as possible.

(iii)

Letter - from Sir HUGH FRASER, Kt., Chairman,
Chamber of Commerce.

To - the Clerk of the Crown, High Court.

Dated - Madras, the 9th April 1914.

I beg to acknowledge receipt of your letter of the 7th instant, and to inform you that the Chamber notes with satisfaction that an enquiry has been instituted into the subject of the inconveniences and disabilities experienced by jurors at the High Court Sessions.

The Chamber considers that the appointment of the proposed Committee to revise the Jury list is a move in the right direction, and it has nominated Mr.A.J.Leech and Mr.G.A.Chambers as its representatives. The Chamber, however, considers that it is desirable that a member of the Madras Trades Association should be asked to join the committee.

(iv)

Letter - from G.S.WHITE, Esq., Clerk of the Crown.

To - the Secretary, the Chamber of Commerce, Madras.

Dated - Madras, the 20th April 1914.

No.244

At an interview on Saturday, the 18th instant Mr.C.J.Higgs, the representative of the Madras Trades Association, Madras suggested that it would save inconvenience to firms if it could be arranged in preparing the jury panel that not more than one juror from each department in an establishment should be summoned for each Sessions. I have the honour to state if each firm

will send me a list of their employees showing the departments in which they are engaged. I shall forward the same to the Sheriff for his guidance with a suggestion that the proposal should be adopted by him as far as possible. I am also writing to the Sheriff suggesting that with a view to this information being inserted in the jury lists in future the form issued by him calling for returns be altered.

I wish to take this opportunity of thanking your representatives for the assistance they have given me in revising the list of jurors.

(v)

Letter - from Sir HUGH FRASER, Kt., Chairman,
Chamber of Commerce.

To - the Clerk of the Crown, High Court.

Dated - Madras, the 10th July 1914.

With reference to your letter of the 20th April I now beg to enclose copy of the report by the Chamber's representatives (Messrs A.J.Leech and G.A.Chambers) on the Conference which they had with you and Mr.C.J.Higgs, the representatives of the Madras Trades Association, in connection with the subject of jury service in Madras. The Chamber understands that you have already put up a Note to His Lordship the Chief Justice in this connection, but it will be glad if you will also submit the accompanying report, informing His Lordship that the recommendations which it contains have been unanimously approved by the

Chamber, which ventures to hope that they will receive His Lordship's most favourable consideration.

The Chamber, in conclusion, begs to thank you for the personal interest which you have taken in the matter, and the endeavours you have made, and are making, to render jury service in Madras less onerous than it has been and more generally equitable.

Sub-Enclosures.

(1)

Mr.C.J.Higgs on behalf of the Trades Association		met Mr.G.S.White, Clerk of the Crown, on 18th April 1914 to discuss the jury list and complaints of jurymen.
Mr.C.A.Chambers Mr.A.J.Leech	on behalf of the Chamber of Commerce.	

Messrs. Chambers and Leech report as follows:-

Jury list - This is drawn up by the Sheriff, and it is the duty of the Clerk of the Crown to revise or add to it, if he thinks necessary. There has apparently been very little real attempt on the part of recent Sheriffs to bring the list up to date, and many eligible people have been omitted. This year Mr.White has, however, actively looked into matters. He has advised the Sheriff that the list is very incomplete, and the latter has promised to go into the matter thoroughly next year. (The lists are published in April, so it is too late this year). There are several lists obtainable in Madras whence a fairly comprehensive jury list could be compiled, viz., Municipal list of rate-payers, the

Government list of tax-payers, membership lists of clubs, etc., and Mr.White has received permission in several directions for such lists to be made available for the Sheriff.

A study of the present jury roll shows that most of the Georgetown, and Mount Road European firms have been pretty well exploited, and there are not many omissions, though even here a few new comers have escaped. The people who are missed are mostly the private individuals whose names do not appear on the various business lists.

The Sheriff does send round to the various firms for lists of employees eligible, but in many cases these requests are ignored and no replies sent. This is hardly fair on those who conscientiously send incomplete lists, and it is to be hoped now that the Clerk of the Crown is really trying to put matters on a fair basis that all the commercial firms will recognise their responsibility in the matter.

This year, the Sheriff having failed to supply an adequate list, the Clerk of the Crown has himself gone into the matter, has deleted many obsolute names and added a number of fresh ones. At the present moment the lists stand:-

European and East Indian Special Jurors	.. 264	
Indian Special jurors	.. 136	
European Common jurors	.. 304	400
East Indian Common Jurors	.. 143	
Indian Common jurors.	.. 529	576
		976

In the jury rules published in the Fort St.George Gazette, No.734 of 1906, it is stated that "it should be necessary to keep the names in the special jury list at the maximum number of 400".

This seems to indicate that the special jury list must not exceed 400 and as will be seen from the above figures it is being restricted to this number.

As the common jury list is already considerably more than double the size of the special jury list, and as the careful revision of the list that is now promised will doubtless augment it still further, it would appear reasonable that steps be taken to increase the maximum number of special jurors or do away with a limit altogether.

Selection - Summoning of the Jurors:- This is entirely in the hands of the Sheriff, and would appear to be done in a very haphazard and inequitable way.

Mr.White informed us that no regular list of the people who have served is kept by the Sheriff though in accordance with rules a full list of those who have served is, at the end of each Session, forwarded by the Clerk of the Crown to the Sheriff.

It seems, therefore, most essential that the Chamber should strongly advocate a complete record being kept in the Sheriff's Office of those who have served at each Sessions. The list should be handed on from Sheriff to Sheriff, and those jurymen who have served should not be called on again to serve, except under exceptional circumstances, till every one on the list

has had his turn. Strict adherence to this rule is the only equitable way possible, and there would then be less heard of one man being called yearly when others are not called for 10 years, which has been by no means uncommon in the past.

Jurors who are called for a Session, and, although not getting themselves excused, are never actually empanelled for a case, should be in the same position as those who have served, and should not be called again till the list is exhausted. In many cases they have to put in quite as much time and as many attendance at the Court as those who actually serve. Those excused would, of course, be liable to be called the next Sessions.

For each of the four Sessions, one special jury panel is called, viz., 27 persons equal three juries consisting of -

		No. of persons.
Europeans and East Indians	..	15
Indians ..	..	12
		27

For each of the four Sessions two common jury panels are called, consisting of -

		First panel No. of persons	Second panel No. of persons
Europeans	..	9	9
East Indians	..	5	5
Indians	..	13	13
		27	27 =
		54 persons	

Thus if the summoning is equitably done, no special or common jury man should be called on to serve oftener than once in 3 to 4 years, and it seems quite clear, even providing for exceptional cases when extra jurors are required, that if any man is called oftener than once in three years it is a case of mismanagement somewhere, and a protest is quite warranted.

The question was brought up as to the real hardship involved by several men being called from a small firm or from the same department of a big firm for the same Session. It has recently been got over by calling, as a general rule, only one man from each firm. This, however, is unfair to the smaller firms, as a firm with 4 men has its list exhaused in a year, and the same men may be called the following year, whereas a firm with 40 men would not be worked through for 10 years.

It was suggested that the fair way would be for each firm to supply in proportion to the number of employees, i.e., from a firm with 40 men, 10 men should be drawn for every one drawn from a firm with only four men, also that it should be left to the heads of the firm to say what men they could spare, so that no department should be temporarily disabled by having several men taken atonce.

Sheriff's office - It would appear that this office is in a more or less chaotic state. The Sheriff a yearly officer, is responsible for the engagement and payment of his staff. It is true he generally takes on the subordinate staff of his predecessor, but it is by no means usual to carry on with the same senior staff.

Some Sheriffs employ a Deputy Sheriff as the head of the office on a salary of Rs.200 to 300 a month, while others do without this officer altogether. There is thus no permanent responsible man in the office, and therefore no continuity of system.

The present Sheriff has no Deputy, and neither had his predecessor. A Sheriff is only an officer for a year, or two at the outside. He probably starts with the vaguest idea of the duties and responsibilities, and leaves just as he is beginning to understand things and get his office system in order. Another Sheriff follows the same thing occurs again, and with no permanent responsible official to keep the office routine in the same lines it is no wonder that chaos reigns and lists are not kept.

This want of management in the Sheriff's office seems to be at the root of the whole matter, and it is most essential that a permanent Deputy Sheriff, with an adequate staff should be insisted on. It is immaterial whether the Government pay the Deputy Sheriff direct or whether it is done through the Sheriff, as at present, but it should be a permanent appointment made by Government.

Empanelling of the jurors and jurors kept waiting in Court - This matter has been taken up actively by Mr.White this past sessions.

Instead of calling both special and common jurors on one day to answer their names, only common

jurors were called to begin with, and endeavours were made to work off one lot of cases first and to avoid having both special and common cases the same day.

It is often impossible to tell who will be required the following day in time to publish in the papers, and the old system of getting all jurors down every second day or sometimes even twice a day in case they might be wanted, involved a waste of time and much expense, especially to those who resided far away. A new system of advising jurors by post cards has been adopted this session, which if properly carried out should save much time.

To avoid keeping two common juries waiting all the time, the system employed in other presidency towns of empanelling one common jury to take two or three cases in succession has been adopted this session with success. This should be of great convenience to common juror.

In the case of special jurors it is hardly possible to do this, as there is often a good deal of challenging, and the juries generally have to retire for some considerable time to consider their verdict. This possibly necessitates a different jury for each successive case, and special jurors are often kept in waiting for many hours.

To obviate this, the suggestion put forward by the Chamber some years ago was again brought forward, viz., that a notice board should be put up just outside the Court and the Clerk of the Crown should undertake

to put up a notice thereon about half an hour before the termination of the previous case - say when the Judge begins to sum up advising that the next jury must be in attendance in half an hour. This would enable special jurors whose time is valuable to leave a clerk to watch the board who would immediately call them up by telephone or otherwise on the notice being put up. This would be a great saving of time to jurors whose officers are near the Court, and even those working far up Mount Road could easily get down by motor in under half an hour. It would involve no responsibility on the Clerk of the Crown beyond putting up the notice for the jurors would go away at their own risk and could stay in Court if they preferred to do so.

Mr.White, however, did not seem to think that this plan was feasible, his objection being that sometimes a case finished prematurely, and it might at times involve a delay till the next jury arrived. He said that by more judicious management, the keeping of special jurors waiting for a long time or calling on them to attend frequently had been avoided to a great extent this sessions.

Jury Retiring Room - These were inspected and seemed fairly satisfactory. There is one retiring room for special and one for common jurors, and also a large waiting room for better class witnesses which the jurors can use. The Chief complaint seemed to be that the jury rooms are often used by vakils and others

for office work, Mr.White promised to give this matter his attention.

Jury Box - Complaints have been made that the seats are very hard and uncomfortable Mr.White has now arranged to have cushions to the seats.

Lunch arrangements - Jurors who live at a distance cannot get home to meals in the short time allowed. No facilities are provided in Court, and there are very few places in Georgetown where a meal can be obtained. Thus jurors often have to go without lunch.

Mr.White has put up a note to the authorities that a tiffin room should be provided in Court for convenience of jurors and that during the Sessions arrangements should be made with some good caterer to provide anything required.

Enquiries have been made as to the customs ruling in Bombay, Calcutta and Rangoon. In Bombay and Calcutta tiffin is supplied to jurors at the expense of the Sheriff, while in Rangoon substantial batta is paid to jurors, Rs.2 per day for attendance and Rs.5 per day if serving, which at times is increased to Rs.10 per day. In Rangoon we believe that gharri hire is also provided.

In conclusion, Mr.White has recently gone into the various grievances that have been put forward the past few years by both witnesses in court and jurymen, and has put by a note on the various points to the authorities.

The Chamber might address the Chief Justice on the following points in support of Mr.White's endeavours to improve matters, suggesting:-

(1) that a permanent Deputy Sheriff be appointed under Government control to ensure continuity of system in that office.

(2) that the Sheriff be requested to thoroughly revise the list of jurors annually and to bring it upto date, this being part of his duty. Omissions from, and mistakes in, recent lists have been very numerous. He should not be content with simply taking lists from the local Directories in which many names, especially of non-Business people, do not appear. Municipal Rate-payers and Government assessment lists might be referred to as well. Some notes should also be made against the names of certain persons who are known to be absent from Madras at certain periods of each year, so that they can be called on to serve while in Madras,

(3) that a list be kept, giving the period and date of service, of those who serve or are in attendance and ready to serve during a session and that these jurors should not be called on again to serve except under exceptional circumstances till everyone else on the list has had a turn. This list should be open to public inspection, or at least to the inspection of such bodies as the Chamber of Commerce and Trades Association.

(4) that the number of special jurors be increased beyond 400, so that a proportion of about one "special" to two "common" be maintained.

(5) that from firms employing a number of jurors the quota called per annum shall be roughly

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the same proportion to their employees on the jury list as the total number called for per annum is to the number on the jury roll. Also that heads of firms should have a say in the matter and be allowed to substitute one man for another in cases of business necessity, so that not too many men be drawn from one department for the same sessions.

(6) that facilities be given for obtaining lunch on the High Court premises to jurors requiring the same.

(7) that jurors should be paid for their services as is done in Rangoon, or failing that, free lunch and gharri hire be provided.

(2)

JURY SERVICE AT THE SESSIONS COURT,MADRAS.

At the request of the Chairman I called on Mr.White, the Clerk of the Crown, at his office on Saturday the 18th, in response to his invitation to the Madras Trades Association to send a representative to confer with him in regard to the new jury list. I found that Mr.White had also invited a deputation from the Chamber of Commerce at the same time and that the sub-committee appointed by the European Association to inspect the arrangements made at the Court for the accommodation and convenience of jurymen were to make their inspection at that time. I therefore found myself committed to a larger task than I anticipated and that instead of a conference on the new jury list I was taking part in a more or less formal enquiry into the whole question of jury service and the matter of the

grievances of which jurymen now complain. Mr.White received the representatives of the three bodies with the greatest courtesy, and throughout the discussion, which lasted two hours and a half, evinced a sincere desire to meet the wishes of the bodies concerned and to find remedies for the specific grievances which had been put before him. The representatives of the European Association withdrew after inspecting the Jury rooms, which was the duty that had been assigned to them and the discussion with the Clerk of the Crown, which covered the whole question of jury service, was carried on by Messrs.A.J.Leech and G.A.Chambers, representing, the Chamber of Commerce and myself, representing the Madras Trades Association.

The points dealt with in the discussion were the method of preparing the jury lists, the selection of special jurors, the principles on which jurors were summoned, exemptions from jury service, the arrangement of the work of the Court with a view to obviate the attendance of both common and special jurors at the same time, and to lessen the frequency with which jurors were required to be present while the Sessions is in progress and the accommodation of jurors while they were required to be in attendance though not serving. Other matters also covered by the discussion were the payment of batta to jurors and the provision of tiffins to serving jurymen. It was of course not possible to arrive at any decisions on these important points,

most of which will have to be considered by the Judges of the High Court and by the Government before any formal pronouncement can be made, but the interchange of views between the representatives of jurymen and the Court authorities has undoubtedly cleared the ground very considerably for improving the conditions of jury service.

With regard to the method of preparing the jury lists, this undoubtedly is very faulty. It is the duty of the Sheriff to prepare the lists and submit them to the Clerk of the Crown who has to be satisfied that they are full and complete and who exercises revisional powers in regard to them. The Sheriff bases his lists upon the returns which he receives to the circular he issues to all mercantile and trading firms, which, in many cases, is entirely ignored by the recipients and in many more are incompletely filled in. Practically no other enquiry is made and the jury lists are consequently very incomplete and inaccurate. The Clerk of the Crown has therefore been compelled to exercise his revisional power very largely and has, so far as the new list is concerned made it much more in conformity with facts than is usually the case and has obtained fresh sources for the supply of information as to persons liable to jury service. It is obvious that the more complete the list of jurors the less service each individual juror will be called upon to contribute and I have undertaken on behalf of the

members of the Madras Trades Association that every possible assistance shall be given in the preparation of the list by the supply of full lists of names of persons employed by them who are liable to service I conceive that it is in the interest of all that no one should be allowed to escape his share of this duty.

In regard to the selection of special jurors, the matter is in the discretion of the Clerk of the Crown subject to a maximum of 400 names of Europeans and of Indians to certain proportions. The full number of 400 has now been made up and there are no further vacancies in the special jury list at present.

One of the main grievances put forward has been the inequitable distribution of service amongst those whose names are in the list, some being called on with much greater frequency than others, and this part of the discussions therefore received a good deal of attention. The selection of jurors for each Sessions is made by the Sheriff, whose office, in a some what rough-and-ready way endeavours to divide up the list in such a way that all persons in the list shall have a share of service, but no special steps are taken to this end. It transpired in the Course of the discussion that the answer given by the Sheriff's office to an enquiry by the Clerk of the Crown, why certain individuals had been summoned with great frequency, was that these gentlemen resided or had

officer near to the court and therefore could be summoned more easily. It is of course no wonder that complaints are made when considerations such as these determine the selection of jurors. It is indeed to the inadequency of the staff of the Sheriff's office and the want of proper oversight by a permanent responsible official that much of the present dissatisfaction of jurors is due.

The number of persons exempted from jury service is very large, but as these exemptions are ordered by Government, it could serve no purpose to discuss them. The association may feel it necessary to address Government in this matter. In this connection a matter arose in which I am personally interested, but which I think I ought nevertheless to deal with. It was mentioned that an ex-Sheriff claimed exemption on the ground of precedent, and the position of ex-Sheriffs in relation to jury service was discussed. As I am myself one of the four ex-Sheriffs now in Madras, three of whom are concerned in this matter (one is exempt for other reasons) I supported the claim to exemption on general principles, but put forward no personal claim. The fact that I had just completed a three-days sitting on the jury was evidence that I had no desire to shirk my own responsibilities. But I think that the dignity of the office of Sheriff is lowered by making ex-Sheriffs liable to jury service and from this public point of view I favoured exemption. I do not know whether the Chamber of Commerce will take up this matter, but

if they do I think our association should support it. If they do not I am not prepared to recommend the Madras Trades Association to do so, as I am the only person at present affected.

The really important point in regard to jury service is the arrangement of the work at the Court on such lines as will cause the minimum of inconvenience to jurors. On this head there was large room for improvement and this was brought home to the Clerk of the Crown directly the matter came up. On his own initiative he had approached the judges with suggestions for alteration in procedure which he was allowed to put in force at the Sessions now being held, and which have, so far as is known at present, been of great benefit to jurors without causing much dislocation of court business. At the present sessions all the common jury cases were dealt with first and when these were finished the special jury cases were called. This has made it unnecessary for both common and special jurors to be present at the same time. Also, the work of each day has been mapped out so far as it could be foreseen and no reserve jury has been kept in attendance. This was experimental and there is reason to hope that it has not caused such inconvenience to the Court as to make the experiment unsuccessful. The difficulties in the way were clearly pointed out by Mr. White and the force of them admitted by the representatives, but we took up

the position that even if some inconvenience was occasionally caused to the bench and the bar and court staff whose services were remunerated, it was less hardship inflicted on business men who gave their reward and often at considerable loss to themselves. In this matter of procedure nothing can be done without the good will of the court staff and the consent of the Judge, and I think we can congratulate ourselves in having Mr.White an official who appreciates the jurors position and is desirous of making it as little onerous as possible.

With regard to the matter of accommodation of jurors in waiting there is room for improvement, but I am not disposed to consider that much of a grievance exists under this head. There is a common jury room and a special jury room in which jurors may wait and where juries deliberate on their verdicts, and there is also a large waiting room for witnesses and jurors. These rooms are furnished, though not as fully as desirable. But the practice of allowing Barristers and Vakils to occupy these rooms as offices ought not to be permitted. It is true that they have to vacate them during Sessions, but often the rooms are so little occupied by jurors that the other occupants remain in practically undisturbed possession.

The practice in other large towns in India in regard to service on juries was referred to, and it was pointed out that free luncheons were given to

serving jurymen in Calcutta and Bombay, by the Sheriffs of those cities at their own expense. In Rangoon, batta is paid by jurors at the rate of Rs.2 per day when called but not serving and Rs.5 a day when serving. I think the association should press for similar batta being paid in Madras, where so many jurors have to come from long distances, involving expense in carriage hire and refreshment.

C.J.HIGGS,
Representative,
Madras Trades Association.

(vi)

Letter - from G.S.White, Esq., Clerk of the Crown.
To - the Chairman, Chamber of Commerce.
Dated - Madras, the 16th July 1914.
No.293 .

I am in receipt of your letter, dated the 10th instant, and have the honour to inform you that the matters referred to therein, in so far as they relate to my office are engaging my attention.

(vii)

Letter - from G.S.WHITE Esq., Clerk of the Crown.
To - The Chairman, Chamber of Commerce.
Dated - Madras, the 20th October 1914
No.391

In continuation of this office letter No.293, dated the 16th July 1914, I am directed by the Hon'ble the Chief Justice to state that the questions relating

to the establishment of the Sheriff's office are for Government and not for the High Court, and that the High Court does not purpose to take any action in the matter in view of the opinion expressed by the Sheriff that the appointment of a Deputy Sheriff is unnecessary.

II

Letter - from C.J.HIGGS, Esq., Acting Chairman,
Madras Trade Association.

To - the Chief Secretary to Government

Dated - Madras, the 25th November 1914.

A few months back the question of jury service at the Criminal Sessions of the Madras High Court engaged the attention of the Madras Trades Association and as a result of a full consideration of the subject after enquiry and on interview with the clerk of the Crown, a letter was addressed to the Honourable the Chief Justice on the 8th June last embodying the views of the association.

Paragraph 3 of this letter had reference to the work of the office of the Sheriff of Madras and was as follows:-

"The matter of an equitable distribution of jury service amongst those liable to render it, is one in regard to which it has long been felt there is much room for improvement. The jury list published annually is often incomplete and in many ways defective, but a defect of equal importance is that service on the jury has not been equitably divided by those whose names are

on the list, some names being summoned much more frequently than others. From enquiries made by my committee I understand that the fault in this respect may usually be traced to the office of the Sheriff of Madras and is mainly due to the fact that that office is under staffed and has no superior permanent head. It would be unfair to hold the Sheriff personally responsible for these short comings and unreasonable to expect that a gentleman appointed to this office as a personal dignity should be required to assume charge of and administer, in all its details, an office charged with portant public duties. The appointment of a permanent administrative head of the office, paid by Government and answerable to Government for the efficiency of his office would seem to be called for."

Under date 20th October, the Clerk of the Crown writes that he is directed by the Honourable the Chief Justice to state that the questions relating to the establishment of the Sheriff's office are for Government and not for the High Court, and that the High Court does not propose to take any action in the matter in view of the opinion expressed by the Sheriff that the appointment of a Deputy Sheriff is unnecessary.

My association has resolved to address Government on this matter as it appears to be one within the control of Government and not of the High Court. I am desired to submit for the consideration of Government that public interests of importance are concerned in the performance of those duties of the Sheriff's Office

which relate to the preparation of the jury lists and the summoning of jurors and to urge that these interests require that such duties shall be efficiently discharged. The office of the Sheriff of Madras is one of dignity and the holder of it is selected from year to year from representatives of the various communities of Madras Citizens to whom it is desired to do honour, for personal merit rather than for special aptitude for the discharge of the duties attached to the office. It appears to my association to be unfair to attach to the office a personal responsibility for the efficient discharge of business duties without providing proper machinery for their performance in the way of a permanent official paid by and responsible to Government. It is true that there is a permanent establishment consisting of a manager, clerks and bailiffs, which the Sheriff is bound to maintain and for which an establishment allowance is drawn from Government by the Sheriff. But these are subordinate officers, responsible not to the public, but to the Sheriff, who is the sole head of the office. In the ordinary course, a Sheriff is appointed every year, so that there is no continuity of control and no close oversight of the work, such as makes for efficiency. It is not suggested that any gentlemen appointed to the office of Sheriff has failed in his duty - many Sheriffs have brought to bear on the duties of the office business qualifications of a high order but it cannot be a satisfactory provision for the discharge of duties affecting

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the public that all authority should be vested in an officer, who is but a temporary incumbent and who would naturally hesitate to take the initiative in altering whatever system he finds in force in the office.

The appointment of a Deputy Sheriff is at present a matter entirely within the discretion of the Sheriff and in recent years it has become the practice to dispense with this officer. My association suggests that the appointment of a permanent Deputy Sheriff, who would be the de facto head of the business side of the Sheriff's office, should be made by Government and a suitable salary be provided from public funds. Such an appointment would add to, rather than detract from, the dignity of the Sheriff and the gentleman receiving the honour of the Shrievalty of Madras would feel, that while serving the city in ceremonial and formal matters, the business matters for which he is charged with nominal responsibility are efficiently provided for.

III

Official Memorandum No.3367/B-1, Judicial, dated 10th February 1915.

The Sheriff of Madras is furnished with the enclosed copies of letters from the Chamber of Commerce, Madras, and the Madras Trades Association, dated the 5th and 25th November 1914, respectively, on the subject of the inconvenience and disabilities alleged to be experienced by jurors summoned to attend the

High Court Sessions. The Chief complaint is that no regular method of summoning jurymen is in force with the result that some jurors are called upon to serve nearly every year while others escape service altogether for several years. The Government consider that the summening of jurymen in strict rotation could be easily and satisfactorily effected in the Sheriff's Office by means of some mechanical device, a card index system for example, by which the periods served by each juror would be recorded on his card, the card being withdrawn from one cabinet, after a juror has served on any occasion, and placed in another in chronological order to await transfers to the first cabinet (at the bottom of the pack) when the supply of jurors run low. The Sheriff is requested to report whether some such arrangement is not practicable, so as to ensure an equitable distribution of the jury service.

(By order)

T.J.TASKER

Under Secretary to Government.

IV.

Letter - from Sir HUGH FRASER, Kt., Sheriff of Madras
To - the Secretary to Government, Judicial Department
Dated - the 22nd February 1915.
No.D.37.

I have the honour to acknowledge receipt of your Memorandum No.3367/B-1, Judicial, dated the 10th instant, and to state that the matter referred to therein will receive my careful consideration and a reply to it will be sent at an early date.

V

Letter - from Sir HUGH FRASER, Kt., Sheriff of Madras.
To - the Secretary to Government, Judicial Department
Dated - the 10th March 1915
No.D.37-1.

In continuation of my letter D.No.37/15, dated the 22nd ultimo, and in reply to your Memorandum No.3367/B-1, dated 10th Idem, I have the honour to reply as follows.

2. The complaint that no regular method of summoning jurymen is in force is hardly correct.

I find a complete record has been kept of all the jurymen who have served during the past five years and, since my advent to the office of Sheriff, an exhaustive analysis of the European special jurors has been compiled which gives some interesting results.

Special jurors listed of which were Europeans -

		Special jurors	Europeans
1910-11	..	377	219
1911-12	..	343	183
1912-13	..	333	204
1913-14	..	363	221
1914-15	..	400	264

In each year four sessions are held

		European special jurors required	Summonses issued
For 1910	..	72	95
1911	..	64	82
1912	..	60	80
1913	..	77	119
1914	..	67	123

On going through the jury list for 1914-15, it appears that the 264 European special jurors are drawn from the following communities:-

From Government offices	31	or say	11.9	per cent
Merchants	128	"	48.5	"
Trades	17	"	6.4	"
Educational	34	"	12.9	"
Engineers and Factories	17	"	6.4	"
Railway	19	"	6.8	"
Miscellaneous	18	"	7.2	"
	264		100.0	

I further find that during the five years 1910 to 1914 the actual number of the above who actually served on juries was 156 made up as follows:-

For Government offices	6	or	3.84	against	11.8	as above
Merchants	100	"	64.10	"	48.5	"
Trades	17	"	10.90	"	6.4	"
Educational	11	"	7.05	"	12.9	"
Engineers and Factories	6	"	3.85	"	6.4	"
Railway	8	"	5.13	"	6.8	"
Miscellaneous	8	"	5.13	"	7.2	"
	156		100.70			

It will be thus seen that the mercantile and trades communities have supplied 75 per cent, of the jurors who have served, while they are only represented by 54.9 of the men on the jury list. This disparity is to some extent caused by the fact that Government officers in the Secretariat whose names appear in the jury list are not available for the April, August or

November sessions and by the fact that a fair proportion are excused from serving after service of summons. I am also informed that jurors drawn from educational community are not available for the April sessions.

3. Another factor which has a distinct bearing on the case is that although 264 names are listed, the whole of these are not available.
I find that -

4 were exempted for 3 years from 2nd sessions of 1914

5 " 2 " 4th "

8 should not be summoned until further orders of the Court, employees at the Buckingham and Carnatic Mills (common jurors).

11 Volunteer officers are exempted presumably until the war is over.

The jury list is usually prepared in February and does not apply until the August sessions by which time a number of those on the list have either gone on leave or been transferred to districts outside Madras. I may also mention that after summonses have been served a good few obtain leave from the court to be excused; during the five years under review this has occurred as follows:-

From Government offices	..	11
Mercantile	..	30
Trades	..	5
Educational	..	5
Engineers and Factories	..	4
Railway	..	3
Sundry	..	2
		60

Taking the above factors into account I estimate that at least one-fifth of the names on the list may be reckoned on as being absent from Madras before it ceases to be operative, which would account for say 53 jurors, in addition to this, exemptions referred to above account for 20 or a total of non-available jurors of 73, and with Government officers not available for three sessions and Educational for one, together with other contingencies, the number of non-available jurors might easily amount to 100, leaving only 164 effective jurors out of the 264 listed.

4. As already pointed out, in 1914, 123 summonses had to be issued to bring together 67 European special jurors and consequently under existing condition it is a practical impossibility to avoid certain number of jurors being summoned for two years in succession.

5. A careful review of those who have actually served on juries shows that during the five years 1910 to 1914, 86 jurors have served once, while, 35 jurors have served twice, and only in three instances have jurors served in two consecutive years. In one case an assistant was allowed, at his own request, to serve as a substitute for a senior in the same office and in another instance extra jurors were required and summonses had to be served at short notice.

6. The suggestion put forward in your memorandum for the adoption of a card index system is hardly practicable, the chief objection being that each office

has to be considered and even in the case of the larger offices not more than one special and one common juror should be summoned for the same sessions. The system of keeping the record, however, might be improved and I am framing a scheme which will, I hope, suit the requirements of the case.

7. As regards the jury list, I would suggest that the 400 names selected should be exclusive of all those exempted either by order of the Court or for other reasons, also that, when possible, no name should be included, when there is reason to believe that the juror may not be available throughout the year.

8. Further, I would bring to the notice of Government the very small percentage of Government officials who have served in recent years and the number who have been excused after receipt of summons.

9. No analysis has been made of those summoned but who were not required.

10. I trust the foregoing explains fully the causes of the complaint put forward and will disperse any idea of mismanagement in this office.

Order - No.767, Judicial, dated 13th April 1915.

The Governor in Council has read with interest Sir Hugh Fraser's valuable analysis of the statistics relating to the service of jurors in Madras and it is clear that under his competent guidance the Sheriff's establishment is sufficient for the work to be done.

2. The Sheriff should address the High Court on the subject of the selection of special jurors referred to in paragraph 7 of his letter.

3. With reference to paragraph 8 of his letter the Sheriff is informed that exemptions from service at particular sessions are granted by the High Court and that applications for permanent exemption of officers from service as jurors are very carefully scrutinised by the Government before they are granted, An examination of the list will, however, now be made and such amendments as may be found to be necessary will be carried out.

(True Extract)

P.RAJAGOPALA ACHARIYAR,
Secretary to Government.

<u>Extract taken from G.O.No.2387, Law General dt.25.8.1924.</u>

<u>Pages 1 to 15 ~~of~~ & pages 1 to 16 nf.</u>

GOVERNMENT OF MADRAS

<u>Law (General) Department</u>

G.O.No.2387, 25th August 1924

Sheriff of Madras - Post treated as honorary - Establishment - Reorganized.

READ - the following papers:-

I

G.O.No.1242, Judicial, dated 9th August 1898
" 1724 " " 18th November 1898.

II

Letter from Sir M.Ct.MUTTAYYA CHETTIYAR, Kt., M.L.C., Sheriff of Madras, to the Secretary to Government, Law (General) Department, dated Madras, the 17th November 1922.

I have the honour to submit to the consideration of His Excellency's Government the following proposals for the reorganization of the Sheriff's office.

Preamble - During the tenure of my office for close upon two years I have given my best consideration to the several proposals formulated by my predecessors in office and the views of the Government thereon, to the conditions since the last reorganization of this office 25 years ago that have led to the increase in the Judges of the High Court from 5 to 12, and the consequent increase in the establishments of the High Court, the increasing complexity in the law and the ruling dealing with the execution of decrees and orders and lastly to the financial condition of the Government.

The importance of reform - I submit these proposals in the interest of the proper administration of justice which vitally depends on the speedy and efficient execution of the decrees and orders passed by the High Court, in the interests of the public who from the date of the filing of the suit till they realize the fruits of the decree look to the Sheriff's officers for the efficient service of their processes and the execution of their decrees by arrest, attachment, sale, etc., and in the interests of the staff who, while being overworked, are watching with disappointment the increase of pay all round in other departments of public service.

The neglect for the last 25 years - I may say that every scheme of reorganization of the various departments of public service, and for the betterment of the prospects of the staff for the past 24 years have left this department unnoticed. I may point out one factor which I have discussed below at length in favour of my proposals. There may have been strong reasons that influenced the Government in shelving all the proposals concerning this office when its receipts were low; but now, when the receipts of the office have risen above Rs.7,000 with an additional contribution of Rs.6,000 per annum from the Government, such considerations as influenced the Government to pass orders - G.Os.No.1242, Judicial, dated 9th August 1898, No.1724, Judicial, dated 8th November 1898, and No.612, Judicial, dated 27th April 1908 - no longer exist.

The origin of the Sheriff - 1727. The Royal Charter of the 24th September 1726 (13 George I) provided for "Our Sheriff of Fort St.George and the Town of Madraspatnam," and it was received in Madras August 1727. And the Government have been appointing a Sheriff ever since 22nd August 1727 whose tenure of office is for a year.

The nature and duties defined - 1800 - The letters Patent for Madras, dated the 26th December 1800, after reiterating the provisions of the said charter for the appointment of the Sheriff on the 1st Tuesday in December, his tenure, his swearing in etc., runs "And we do further order, direct and appoint that the said Sheriff and his successors shall, by themselves or their sufficient deputies to be by them appointed and duly authorized under their respective hands and seals and for whom he and they shall be responsible during his or their continuance in such office, execute, and the said Sheriff and his said deputies are hereby authorized to execute, all the writs, summons, rules, orders, warrants, commands and process of the said Supreme Court of Judicature at Madras and make return of the same, together with the manner of the execution thereof, to the said Supreme Court of Judicature at Madras, and to receive and detain in prison all such persons as shall be committed to the custody of such Sheriff by the said Supreme Court of Judicature at Madras, or by the Chief Justice, or any of the said Puisne Justices of the said Court respectively."

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The Sheriff - The Government have always selected a gentleman of status and position, rich and influential, who may worthily be called "The Premier Citizen of the City", not belonging to the Government service, nor to the profession of law, nor to the Military service (44 and 55 Victoria, C 58, 146), Usually such gentlemen have ever been and are those with large commercial activities and with various other honorary appointments, able to devote only a very small portion of their valuable time to the work of the office and to the public duties, such as the convening of public meetings, attending at the Criminal Sessions of the High Court, etc., It is not to be expected that such gentlemen will have either the time or the necessary legal training to sit in their offices, to interpret the various orders and decrees passed by the eminent judges of the High Court and apply the various intricate rules prescribed by the High Court to the exigencies of each case.

His short tenure - Considering that in many cases the decrees in the various stages of their execution are referred back to the High Court, also that there are sometimes differences of opinion among the Honourable the Judges themselves as to the interpretation of rules and sections of the Code and also that it takes years before a decree is completely satisfied, it is not possible for any Sheriff, however competent he may be, to do full justice to his work.

Sheriff Firth's proposals, 1898: I think some of these above reasons actuated a predecessor of mine as early as 1898 to propose making the Sheriff a permanent official for a period of three to five years as "before he" (such Sheriff)"had time to master the position his tenure of office came to an end". - E.J.Firth, Sheriff, Despatch to Chief Secretary to Government No.214, dated 17th September 1898.

Of course such a proposal does not take into consideration the nature of the office or the principles on which the Sheriff is appointed.

The Deputy - So it has been customary, ever since the institution of the Sheriff's office, to have a Deputy Sheriff appointed by the Sheriff under the Letters Patent of 1800 for the tenure of his office, who has some experience of legal work and who has had some experience of the Sheriff's office by having served in the time of his predecessors.

The Deputy in the days of the Honourable Company - The Deputy drew in 1800 a pay of 60 pagodas and a palanquin allowance of 12 pagodas, making in all Rs.252 which was his pay till the end of the last century.

His tenure - But, however able the Deputy may be, so long as he also may be turned out of the office after a year, he will not be in a position to get a grasp of the details or have any efficient control over the management or exercise any discipline on the permanent staff.

Though the Government in their G.O.No.1724, Judicial, dated 8th November 1898, state "That all the Government desire is there should be permanent establishment sufficient to ensure that the work of the Sheriff's office will be properly carried from year to year," they have not ensured the continuity of the office.

Sheriff's letter to Government No.214, dated 17th September 1898 - In the proposals made by my predecessors referred to above, he has pleaded hard for the Deputy at least to be made permanent alternatively, if the Sheriff be not made permanent.

<u>Government's position 1899</u> - The Government in No.758, Judicial, dated 13th May 1899, Despatch to Government of India, state "The Sheriff who was in receipt of nearly Rs.900 per mensem over and above the cost of his establishment was accustomed to appoint a Deputy Sheriff on a salary of Rs.250 per mensem. The Sheriff appointed for the current year has already dispensed with the services of the Deputy Sheriff who has held office for some years past, and has appointed in his stead a Deputy Sheriff on a salary of Rs.100 per mensem. Such a sum is obviously insufficient to attract persons of status or attainments in any way corresponding to those of the Deputy Sheriff in Calcutta who is stated in your letter to be a professional lawyer, nor it is likely that with its reduced emoluments, the uncertainty of its tenure, the post of Deputy Sheriff

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will remain for long in the hands of one person. The Government has no power to compel successive Sheriffs to retain the services of the Deputy Sheriff appointed by their predecessors or to continue the same rate of pay or, in fact, to employ a Deputy Sheriff at all."

I submit that for the continuity, discipline of the office and efficient discharge of work, a permanent Deputy Sheriff is absolutely necessary and he must be a graduate in law with some experience of the office, with sufficient pay to attract men of status and position. In the correspondence that passed between the Government of India L.No.758, Judicial, dated 13th May 1899, and the Government of Madras during the year 1898-99, the Government of Madras observed" It would be open to the Sheriff to dispense with the services of the whole of the previous staff employing instead his own nominees. Further the uncertainty of the tenure of office of the members of the staff would reduce the value of the posts and would result in the employment of men of inferior qualifications. The evils of such a system are, His Excellency the Governor in Council considers, apparent. Though it is true that the Sheriff is personally responsible to the parties concerned for any failure to perform his functions, and is liable to be sued therefor, yet the office, being one to which the Governor in Council holds the power of appointment and one which is intimately connected with the administration of justice for which the Government is

responsible, it appears to His Excellency the Governor in Council to be incumbent on him to take such precautions for the due exercise of the Sheriff's functions as will prevent inconvenience to persons resorting to Courts. Much inconvenience to the public might, I am to say, be caused by the inefficiency or inexperience of the Sheriff's establishment for which a suit against the Sheriff would afford no adequate compensation. The necessity for employing a permanent staff in connexion with the service of processes has been recognized by the Government of India. Mr.Lyall's letter No.428, dated 26th March 1891, paragraph 5, not only approved of the adoption of this principle in Madras but suggested its extension to Calcutta."

"In the opinion of this Government, the altered conditions of the administration of the Sheriff's office strongly emphasise the necessity for retaining some at least of the members of that office on their present footing as permanent public servants." The above remarks apply word by word to the Deputy Sheriff but for whom the objects expected by the Government of Madras will not be realized. The permanency or otherwise of the process service or the clerical establishments will in no way mend the situation, increase the efficiency or save the Sheriff from paying damages. The Deputy Sheriff has always been there for the last 100 years and more but the efficiency arising out of a permanent personal control has been lost by the imitation

of the High Sheriff in the matter of tenure. Under these circumstances no further argument is necessary to make the office of the Deputy Sheriff, especially when one considers the statement in the above quotation that the Government, in Council have made themselves responsible for the administration of justice.

As soon as I took charge of the office and familiarised myself with the work of the office, I appointed a Deputy Sheriff, a graduate in law, with some professional experience, and I find that there has been no complaint about the office work either from the High Court or from the parties, And I may say that I was saved a good deal of worry. And he had to attend his work at least for five hours in the day. In the communication which I received from the Sheriff of Bombay, I read that the Deputy Sheriff is a permanent Government Officer on Rs.600-800 and the appointment, whenever it falls vacant, is under the Letters Patent made by the then Sheriff. I have appended the letter from the Sheriff of Bombay.

The office 100 years ago:- The Sheriff's Office in 1822 consisted of :-

One High Sheriff on Rs.350

One Deputy Sheriff on Rs.252

One Brahminy Record Keeper on Rs.140 and

Clerical staff 4 and

Process Staff - 4 European bailiffs

One Keeper of H.M's goal

Head Peons	..	2
Peons	..	43
Masalchis	..	2
Brahminy Waterwomen	..	5
Smith	..	1
Sweepers	..	4 and
Totis	..	4

During the course of the last century, after the removal of prisons from the charge of the Sheriff, at the end of the century the office consisted in 1898 of -

		Rs.	A.	P.	
The Sheriff who was paid	..	898	0	0	and
The Deputy Sheriff	..	250	0	0	
Clerical					
A Manager	..	110	0	0	
Deputy Manager	..	50	0	0	
One Clerk	..	23	0	0	
One Accountant	..	35	0	0	
Process					
3 European bailiffs	..	55	0	0	each
3 Indian bailiffs	..	13	0	0	"
Menials -					
1 Head Peon	..	8	0	0	
6 Peons	..	7	0	0	and
1 Sweeper	..	1	12	9	

The reduction in 1899-00 - This staff was cut down to half by the removal of two of the clerical staff, two of the bailiffs and of four of the peons. There are at present besides the Deputy -

			Rs.
1	Manager	..	125
1	Accountant	..	58½
2	European bailiffs	..	65 & 52
2	Indian Bailiffs	..	25 each
3	Peons	..	15 each and
1	Sweeper	..	2

This staff in its attenduated condition has been battling with the growing work for the last 24 years.

The heavy increase in work - The above reduction of the staff took place at a time when there were only five Judges in the High Court, one only of whom sat on the Original Side and not for the whole week at that.

Without going at length into the various proposals made by my predecessors, I will confine myself to referring to that made by Khan Bahadur Khuddus Badsha Sahib on 19th April 1913 who has ably reviewed the increase of work in this office upto 1913. Those proposals shared the fate of their fore-runners.

I have only to add that from 1913 there has been a heavy increase of work. The number of the Honourable Judges is at present 12 as against five

in 1898, when this office was reorganized and from last year instead of one intermittent Original Side Court as in 1897 there have been three Benches sitting permanently on the Original side of the High Court and I leave it to the Government to judge of the increase in the work of the office. In the High Court there has always been an increase in the establishments whenever there has been an increase in the Judges. Apart from the increase in the Bench Clerks and the subordinate clerical staff, the work on the Original Side which was attended to by one Deputy Registrar has increased necessitating three officers, one Deputy Registrar and two Assistant Registrars on high salaries. I have appended a statement * also showing the increase of work in this office. I submit that the work has increased not only in quantity but has also become more technical and intricate. I think I will be only slaying the slain in arguing this self-evident proposition further.

* Not printed

My proposals - I propose that the Deputy Sheriff also be paid like others of the staff by the Accountant-General and that he be made eligible for pension after long service.

The Deputy - I propose that his pay be fixed at the same rate as that paid to him throughout the last century. The Deputy was paid for self and his palanquin 72 pagodas in 1803 and Rs.252 in 1822 and Rs.250 in 1898. As other judicial officers on a

similar pay 25 years ago are now in receipt of double and treble the amount, I propose a sliding scale of Rs.250-25-350.

The Manager - The Manager or his predecessor the "Brahminy Record-Keeper" was in receipt of a pay of Rs.140 in 1822. The Manager's pay in 1876 was Rs.125. And he is now for the last two years only drawing a pay of Rs.125. He has to be in custody of valuable properties attached, and he also has to attend to the annual preparation of the Jury lists and the quarterly summoning of Jurors.

The present Manager who has put in nearly twenty years' service has had considerable experience of the routine work of the office but receives less pay than the Manager of the Crown Office, the Advocate-General's Office or of the Administrator-General's Office gets. I propose that his pay be fixed upon a sliding scale of Rs.175-25-225.

The Accountant - The Accountant attends to the collection of fees, keeping the accounts and attends to all the correspondence of the office, besides being answerable for all the monies received. The present incumbent who got himself transferred from the Appellate Side of the High Court, after twenty-one years of service and after earning the satisfaction of all his successive superiors, is drawing only a poor pay of Rs.58½. I am giving him an allowance of Rs.17/8 which was paid to him by my predecessors, so that he gets in all Rs.76 per mensem. This pay is

certainly very insufficient, and I recommend that he be put on a scale of pay of Rs.100-10-150.

It is rather curious that this is the only office in which there is no clerk and no typist, and the correspondence has all to be written out and not typed as in all offices. Owing to this it is not possible to keep proper registers for the receipt and despatch of papers, correspondence or valuable records. It has not been possible even to have a file of papers connected with this very office; if the High Court or the Government had at any time called for any papers or inspected this office it would not have been possible for the office to render a consistent scientific account of itself. A Nazir's office in the District and Subordinate Judge's Court have more methodical registers of its work therein than the execution department of the High Court.

I would recommend a typist-clerk as an addition to the present staff.

As regards the process service, the increase of work has fallen mainly on the bailiffs, considering it to be in the nature of defendants and judgment debtors to evade service as much as they can, and it is no wonder that the service of one process sometimes requires repeated attempts extending over a length of time requiring more hands.

I will suggest one more addition to the Indian bailiffs, making them three as in 1897.

The revision of the establishment according to the above proposals will stand thus - and I have also annexed a proposition statement.

		Rs.
Deputy Sheriff	..	250-25-350
Manager	..	175-25-225
Accountant	..	100-10-150
Typist-Clerk	..	35-5-75
European bailiffs	..	No change
Indian bailiffs	..	25-2½-35 each
Additional bailiff	..	25-2½-35
Three peons	..	20 each
Sweeper	..	3
Additional sweeper	..	2

I propose giving the Indian bailiffs a sliding scale of Rs.25-2½-35 and the peons Rs.20 each and the sweepers Rs.5

The above proposals for the reorganization of the Sheriff's office are not new and they are merely a recapitulation of the change in conditions and previous proposals. It is enough to refer to the correspondence of the previous years some of which I have quoted.

Lord Clive's days - in 1799 Lord Clive proposed a fixed stipend for the Sheriff. "That officer" he wrote, "has been in the practice of retaining one-third of the sum allowed for his bailiffs at Madras, and of drawing for no less than fourteen others who do not

exist, producing in the whole the sum of pagodas 104 per month together with poundage upon sale."

Exactly one hundred years ago the Sheriff indented the Honourable Company for the month of November 1822 as follows:-

		Rs.
To pay of the High Sheriff	..	350
" Deputy Sheriff and his palanquin allowance	..	252
" Brahminy Record Keeper	..	140
" Other Clerical Staff	..	77
" Process Staff 4 bailiffs	..	105

and for a host of menials who looked after the felons' and debtors' gaols in his charge. He also distributed pensions and paid a rent of Rs.87-8-0 for his office. He indented for a total sum of Rs.1,860-4-10 which with average contingencies would come upto Rs.2,000 a month.

In 1897 the Sheriff was paid Rs.898 a month out of which he paid his Deputy Rs.250 a month and the Government paid also a further sum of Rs.473-12-9 for the establishment. The monthly cost to Government in 1897 was Rs.1,371-12-9.

Finances - Till 1899 the receipt of the Sheriff's office were credited to Government and the Government paid the charges of the Sheriff's office. From the year 1896 the receipts began to decline and the Government considered in 1897 that they were making a high rate of payment out of

Government funds on this account and suggested that the nett charge to Government should be limited to Rs.500 a month and the fees should be received by the Sheriff and not be credited to Government and that the Sheriff in addition for himself and his expenses is to draw a sum of Rs.500, from the Treasury. This system continues upto the present date. The reason why the Government handed over what is now a profitable source of income to the Sheriff was that the receipts of the Sheriff's office in 1896 was only Rs.3,134 and the cost of the office to the Government being about Rs.14,000.

The High Court who were asked to increase the fees levied by the Sheriff declined to do so. G.O.No.1242, Judicial dated 9th August 1898, runs: "The Hon'ble the Judges of the High Court having expressed the opinion that a revision of the scale of Sheriff's fees is undesirable, it becomes necessary to adopt the other alternative suggested by the Government of India. From the beginning of the next year therefore the fees will be received by the Sheriff and will not be credited to Government."

Much water has flown under the bridge since the Government resolved to deprive itself of the income from the Sheriff's office and receipts during recent years have gone over Rs.7,000.

I have appended a statement showing the steady increase of fees for the last five years:-

The Receipts.

	Rs.	A.	P.		Rs.	A.	P.
1918	5,772	12	0	1921	7,783	0	0
1919	6,391	5	0	1922 (ending 31/10	7,328	0	0
1920	7,216	4	0				

The above sums are the fee receipts received by the Sheriff under the Government Order mentioned above apart from Rs.500 a month paid by the Government. The statement appended herewith will show that from Rs.3,201-2-0 in 1900 it has risen to Rs.7,783 in 1921. Now, taking into consideration that the Court Fees Act of 1922 has amended the Act of 1902 and fees have been raised all round, over higher scale, it follows that the High Court will also raise the scale of the Sheriff's fees and in that case the receipts of the Sheriff are bound to reach a figure over Rs.10,000 for the appropriation of the Sheriff.

The monthly cost of the Sheriff's establishment one hundred years ago was Rs.1,860-4-10, as per their indent* to the Honourable Company for November 1822 which I enclose, in 1898 it cost Rs.1,371-12-9, and my scheme will cost only Rs.817 a month at its inception.

* Not printed

Conclusion - The schemes for reorganization for a more efficient and intelligent working of the office which were not possible owing to the financial conditions cannot now be pleaded as impossible. I need hardly point out to Government the increase in the cost of the establishment will decrease in proportion the emoluments of the Sheriff and to leave it to each individual Sheriff to appoint additional staff will be only tempting providence. The fees received by the Sheriff may be continued to be received by the Sheriff with the above mentioned charges on them or may be credited to Government to make these payments and also make a fixed allowance to the Sheriff as in the days of the Honourable Company, if necessary.

Under these circumstances, there can be no difficulty in the Government sanctioning my proposals and reorganizing a department of the administration of law and justice which has suffered owing to a kind of diarchical supervision under the Executive Government and the High Court.

ENCLOSURE

Statement of proposition for revision of establishment

..79

Nature of charge

Present scale			Proposed scale						Proposition: Permanent Increase per month	
Number and designation	Pay		Number and designation	Pay: Minimum	Pay: Increment		Pay: Maximum		Amount	
	Rs.	A.		Rs.	Rs.	A.	Rs.		Rs.	A.
1 Manager	125	0	1 Deputy Sheriff	250	25	0	350		250	0
1 Accountant	58	8	1 Manager	175	25	0	225		50	0
..			1 Accountant	100	10	0	150		41	8
1 European bailiff	65	0	1 Clerk typist	35	5	0	75		35	0
1 -do-	52	0	1 European bailiff	65						
1 Indian bailiff	25	0	1 -do-	52						
1 -do-	25	0	1 Indian bailiff	25	2	8	35		..	
..			1 -do-	25	2	8	35		..	
3 Peons on Rs.15 each	45	0	1 -do-	25	2	8	35		25	0
1 Sweeper	2	0	3 Peons on Rs.20 each	60					15	0
..			1 Sweeper	3					1	0
			1 Sweeper additional	2					2	0

III

Letter from Mr.R.V.Krishna Ayyar, Assistant Secretary to Government, Law (General) Department, to the Hon'ble the Chief Justice of the High Court of Judicature, Madras, dated the 21st November 1922.

(Sheriff's establishment - Reorganization - Letter from the Sheriff, No.D.240/22, dated 17th November 1922)

I am directed to request that the Government may be favoured with your remarks on the above proposal.

IV.

Endorsement No.4626/B-1, Law (General), dated 21st November 1922.

Referred to the Accountant-General for remarks.

(By order)

R.V.KRISHNA AYYAR,

Assistant Secretary to Government.

V.

Letter from the Accountant-General, Madras, to the Secretary to the Government of Madras, Law (General) Department, Fort St.George, dated the 13th December 1922, Cud. P.A.No.557.

In returning herewith the enclosures received with your endorsement No.4626/B1, dated the 21st

November 1922, I have the honour to state that a copy of the Sheriff's letter was received in this office with the enclosed proposition statements of which the entries in the column 'Present scale' have been verified and found to be correct. There is no audit objection to the proposal made in the proposition statement being sanctioned by Government. In working out the extra cost, the minimum of the proposed scale has been taken into account instead of the average cost.

2. As regards his own fees, the Sheriff has made two alternate suggestions, viz., (1) that the fees realized by him be credited in entirety to Government, he being remunerated for his work by a fixed allowance as in the days of the Honourable the East India Company and (2) that the existing arrangement of his retaining the fees realized and receiving a fixed allowance of Rs.500 a month from Government be continued, the pay of his staff being met by him out of his fees and fixed allowance, having regard to the impending revision of Sheriff's fees, it is for Government to decide which of the alternative proposals would be more economical and to sanction the same. If the latter proposal were accepted, the cost of the staff would exceed the monthly grant of Rs.500. As the establishment bills have to be audited by this office, the whole of the expenditure will be met by Government in the first instance and the difference will have to be made good monthly by the Sheriff.

3. It is, however, for the consideration of Government whether an additional charge in respect of the pensionary charges of the increased establishment should not be recovered from the fees received by the Sheriff as Government appear to have accepted the pensionary charge only because the establishment was small. It is also for the consideration of Government whether in view of G.O.No.612, Judicial, dated 27th April 1908, the proposed post of Deputy Sheriff should be on a pensionary footing.

4. Necessary provision of funds should be sanctioned to meet any extra expenditure that may be involved by the proposals of the Sheriff.

VI

Letter from F.G.Butler, Esq., M.A., I.C.S., Registrar, High Court, to the Secretary to Government, Law (General) Department, dated Madras, the 12th April 1923, R.O.C.No.3270/22.

With reference to your letter No.4626/B-2, dated the 21st November 1922, I have the honour to forward herewith the proposals received from the late Sheriff regarding the reorganization of his office together with the minutes of the Honourable the Judges on the subject.

ENCLOSURES

Minutes of the Honourable the Judges.

The Hon'ble Mr.Justice Ayling - I have so little knowledge of work on the Original side that I would prefer not to express an opinion.

The Hon'ble Mr.Justice Old field - I also

The Hon'ble Mr.Justice Spencer - I also

The Hon'ble Mr.Justice Coutts Trotter - I am in general agreement with Mr.White's minute. But as the Sheriff is invariably a prominent and wealthy citizen, I would suggest that his salary might be abolished, and a permanent salary given to the Deputy Sheriff, who should not be liable to removal on a change of Sheriff. That is the English practice, and I am convinced that is a sounder practice than to make the appointment of Deputy Sheriff a piece of shifting patronage in the hands of the Sheriff.

A drastic revision of the jury lists is needed badly; under the present system it is nobody's business to see to it. There are many Europeans on the common jury list, who are there merely by lapse of time, and who ought to put on the special jury rota. A Judge takes the Sessions on an average once in three years, and can do nothing; it should, I think, be the function of the Sheriff to consider it part of his duty to revise the lists.

The Hon'ble Mr.Justice Philips - I see no objection to making practitioners serve their own summons and notices, and it would greatly reduce the Sheriff's work, and would I think lessen corruption, for there can be no doubt but that corruption is rife in process establishments generally. This reduction of work should be sufficient to prevent the necessity

for increase in establishment. As regards rates of pay for the establishment of Sheriff, I have no remarks to make but I agree with Coutts Trotter, J.'s proposal to have a permanent Deputy Sheriff, who will receive the whole or part of the Sheriff's allowances.

The Hon'ble Mr.Justice Kumaraswami Sastri - I do not think that practitioners should be empowered to serve summonses in suits and notices required by the Code or rules to be served personally on the parties. It would give rise to a great deal of fraud. The persons who would swear to the service will be the vakil's clerk and the party who is interested in snatching an ex-parte decree or order. Even with the safeguards now existing for service we often hear of parties not being served but false return being sent on. My own experience is that vakil's clerks are with some exceptions unreliable. In some cases they are touts under the name of clerks.

I do not see why the High Court should not have its own process service establishment like other courts. The system of serving through the Sheriff is a survival of the old English practice of the Supreme Court at a time when the old English practice was in force on the Original Side.

Should the Sheriff be an honorary officer we can have a process establishment of our own consisting of process servers under the control of the second Assistant Registrar on the Original Side. I think it

will be a cheaper and more efficient system as we will have direct control over the process servers.

I don't understand what Mr.White means by saying that the service of notices and summonses is not properly the business of the High Court. It is under the Code the duty of the Court to see that summonses and notices are properly served. The question is the machinery employed to do that duty.

The Hon'ble Mr.Justice Krishnan - I am in favour of allowing practitioners to get summonses and notices issued by the Court, served by their clerks. I do not apprehend that this would lead to any great fraud as Kumaraswami Sastri J, thinks, as the service will have to be proved by affidavit and any fraud can be effectively put down by criminal prosecution. It will lessen the work of the Sheriff's office considerably. As for the appointment of a permanent Deputy Sheriff I have no remarks to make for or against it.

The Hon'ble Mr.Justice Ramesam - I have practically little experience of Original Side and I can add nothing useful. But I wish to express agreement with the opinion of Coutts Trotter, J. and Kumaraswami Sastri, J.

The Hon'ble Mr.Justice Odgers - I do not agree with Mr.White that there is little corruption in the process establishment of the Small Cause Court. There is or was a great deal and I had at least one departmental enquiry when I was Chief Judge there. I am

inclined to agree with Kumaraswami Sastri, J. I also have no faith in vakil's clerks who are irresponsible persons here today and gone tomorrow. I think it would be a dangerous precedent in this country to let the parties serve processes as solicitor issues a writ at home. I am for retaining the present practices, improved as much as possible and freed from corruption if possible.

The Hon'ble Mr.Justice Devadoss - There is a good deal of corruption in the process - servers' establishment in the mufassal and many District Judges and Munsifs attempted to put it down without success. In Madras we do not hear loud complaints of the exaction of the bailiffs and process - servers as the parties are generally well to do and do not grudge to pay what is demanded. It is not easy to remedy the evil. One mode of putting down corruption is by empowering the accredited clerks of vakils and attorneys to serve notices. The vakils should be held responsible for the good conduct of their clerks and it should be their duty to see that the service of notice is effected honestly and expeditiously.

I do not share the apprehension of Kumaraswami Sastri, J., that vakils clerks will file false affidavits of service If vakils are held responsible for the good conduct of their clerks there will not be room for complaint. False affidavits of service are now filed with impunity as the bailiff or process-server is able to throw the blame on the party's agent or clerk.

When no backsheesh is paid by the person taking out process or notice the return invariably is 'not found'. A small fee should be allowed to the vakils' clerks for this work.

There is no need to increase the establishment of the Sheriff's office.

It should be the duty of the Sheriff to execute decrees and make attachements, etc.

The jury list is not one prepared with as much care and attention it deserves.

The Hon'ble Mr. Justice Venkatasubba Rao - There is a great deal of corruption at present in the process serving and execution department, and Mr. White is right in saying that something must be done to put an end to this; but I am not in favour of empowering lawyers' clerks to serve summonses in suits. I agree with Kumaraswami Sastri, J., that this will lead to great evils, and in my opinion the remedy proposed is worse than the disease. The Vakils' Association has told us that it is not in favour of a change in this direction and I fully endorse its view. No doubt subpoenas, notices of motion, and Judges' summonses are now served by lawyers' clerks, but in the execution of this work there is little scope for dishonesty or fraud. A party is not interested in getting a false return made in regard to the service of a subpoena on his own witness and if a false return is got made, the fraud is very

soon exposed and no one suffers. Again in the matter of Judges' summonses and notices of motion, in most cases when they come to be served, the opponent is represented by a vakil or attorney, and if an application is made in court without proper service, the omission scarcely escapes notice. In fact the cause list proclaims to every body concerned that a case is set down for a motion. In cases where Judges' summons or a notice of motion has to be served upon an opponent before the latter engages a lawyer, any fraud will be detected very early after an order upon the application is made and a timely enquiry will bring to light the true state of facts.

In the matter of service of summonses in suits, different considerations will apply. To take a simple instance, if it is made to appear that a defendant has been served on the 1st of April 1923 and decree is passed against him on the 20th July 1923 and execution is applied for in July 1926, the question arises only on the last-mentioned date whether there was a proper service three years previously. By that time the plaintiff's vakil may have ceased to practise on the Original Side, he having gone out to the mufassal to practise or been appointed as District Munsif, and his clerks may have altogether disappeared. This is by no means an extreme instance and I know from experience that clerks in many lawyers' offices are on a very precarious tenure and are sometimes

irresponsible persons. It is impossible in the present state of things to improve the quality of these clerks, and it will be nothing short of a grave danger to adopt the suggestion in question. The temptation to the party is great, the issues involved are large and he can make it worth the while of the lawyer's clerk to file a dishonest affidavit of service. I am able to speak from close and intimate personal knowledge and I am entirely opposed to the change advocated.

The remedy lies in making the department subject to the immediate control of the Deputy Registrar on the Original Side. The Sheriff is appointed only for a year. He is a layman not conversant with the work of the court, and having very little time at his disposal. In the circumstances his control has become purely nominal. The department being under the charge of the Sheriff is due to tradition and to historical reasons and has no justification. The process and execution staff is notoriously corrupt all over the country; and far from effective control existing on the Original Side, the control is very lax and this is inevitable under the existing circumstances. I think with Kumaraswami Sastri J., that the process and execution department may with advantage be incorporated with the office of Original Side and be subject to the Deputy Registrar of that side of the High Court.

As regards the proposal to have a permanent Deputy Sheriff I am in favour of it. But the necessity for it will disappear if and when my suggestion making the above department subject to the control of the Deputy Registrar, is accepted.

The Hon'ble Mr.Justice Coleridge - I know nothing of Madras process establishment, but I do know something of those up country and their efficiency depends on the man in charge of the district and of the district munsifs and the nazirs. If the latter know they are watched, they do their work and the men under them do and the public bring irregularities to notice. If supervision is slack the public bear it with oriental calm and benefit by it when they can. I think the Sheriff can have no control and the system must be bad. I don't think vakils' clerks are any better than the process establishment at its worst and certainly not as good as when properly controlled as they could be in Madras by being under a well-paid permanent official.

VII

Memorandum No.1935-B1, Law (General),dt.25th June 1923.
(Sheriff's office - Reorganization, etc)

The communication addressed to Government by the Sheriff of Madras on the above subject together with the remarks of the Hon'ble the Judges of the High Court thereon is forwarded to the Secretary to the Judicial Retrenchment Committee, with the request that the committee will be so good as to offer their remarks on the suggestions made.

R.RAMACHANDRA RAO,
Secretary to Government.

To

The Secretary, Judicial Retrenchment Committee.

VIII

Letter from M.R.Ry.R.V.KRISHNA AYYAR AVARGAL, B.A., M.L., Secretary to the Judicial - Retrenchment Committee, to the Secretary to Government, Law Department, dated Madras, the 14th August 1923, No.103-1.

(Law Department Memorandum No.1935 B-1, dated 25th June 1923 - Reorganization - Sheriff's office)

I am directed to state that, in view of their recommendations in paragraph 22 of their report, the Committee are of opinion that it is unnecessary to sanction the proposals made by the Sheriff in his letter, dated 17th November 1922.

ENCLOSURE

22 Sheriff's office to be honorary - The Committee considers that the post of Sheriff should be an honorary one. The entire proceeds from process fees, commission, etc., levied by the Sheriff should be credited to the Government. Processes should be served by an establishment attached to the High Court, the present establishment placed under the Sheriff being transferred to the High Court.

IX

Letter from M.R.Ry.Diwan Bahadur R.Ramachandra Rao Avargal, C.S.I., Secretary to Government (Law General) Department, to the Hon'ble the Chief Justice of the High Court of Judicature, dated Madras the 13th September 1923, No.1935 B-2.

(Reorganisation of the Sheriff's office - Mr.Butler's letter R.C.C.No.3270/22, dated 12th April 1923)

I am directed to state that in the opinion of the Government the post of Sheriff should be an honorary one and that the entire proceeds from process fees and commission levied by the Sheriff should be credited to Government. The Government accordingly propose to treat the Sheriff's office as honorary from the 20th December 1923 when the term of the present Sheriff expires.

2. The Government also favour the proposal to attach the process serving establishment, now under the Sheriff, to the High Court; but they consider that the expenditure on account of the establishment should not exceed the receipts from process fees and commission. I am to request that the Hon'ble the Judges will be so good as to forward to Government detailed proposals in respect of the establishment.

3. In regard to the appointment of a Deputy Sheriff I am to state that the Government favour the appointment of a permanent officer so as to ensure continuity. They will be glad to receive the views of the Hon'ble the Judges as to the salary to be attached to the post and as to the possibility of the utilization of the jurisdiction of the High Court under all the powers there unto enabling so as to ensure that the Deputy Sheriff whose nomination is dependent on the Sheriff for the time being under the letters Patent of 1800 may nevertheless in practice be an officer with a permanancy of tenure.

X

Letter from F.G.BUTLER, Esq., M.A., I.C.S., Registrar, High Court, to the Secretary to Government, Law (General) Department dated the 27th November, 1923 - R.O.C.No.3270/22.

(Sheriff - Reorganization of office - Your letter No.1935 B-2,dated the 13th September

I am directed to state that your letter referred to above has been laid before their Lordships the Hon'ble the Judges of the High Court. Their Lordships observe that the question whether the office of Sheriff should be honorary is one that does not concern them and they have no objection to Government's proposal.

2. As regards the proposed transfer of the process service establishment from the Sheriff to the High Court, it is not clear whether it is Government's suggestion that the execution work of the Sheriff is to be transferred also. If such a transfer is proposed - and it cannot be effected without an amendment to the Supreme Court Charter of 1800 - it is not clear what need there will be for a Deputy Sheriff at all. The Sheriff would then become a picturesque functionary with purely ceremonial duties and the need for a whole time permanent Deputy is not apparent. On the other hand, if it is not proposed to transfer the execution work, it is certain that the division of the functions will not result in any saving, for it is undoubtedly more economical to have the process and execution work done by the same staff than to duplicate by giving

process serving to the High Court and execution work to the Sheriff. It is difficult to see how such division could be made self-supporting financially. In this connexion I am directed to enclose a copy of the letter received from the present Sheriff.

3. As regards making the Deputy permanent, it has to be borne in mind that under the Supreme Court Charter, the Sheriff appoints his Deputies and he is personally responsible for their acts. There might be some difficulty in continuing his responsibility when the appointment of the Deputy no longer rested with the Sheriff. It might, of course, be possible to make it a condition of appointment of individual Sheriffs that they should reappoint the existing Deputy. It is for Government to decide whether such a step would be desirable and whether it is a condition that would be likely to be accepted by me eligible for the office.

ENCLOSURE

Letter from the Sheriff of Madras, to the Registrar, High Court of Judicature, Madras, dated the 5th October 1923, D.No.240/22-A.

With reference to your letter R.O.C.No.3270/22 of the 24th ultimo, I have the honour to forward herewith a statement showing the number of processes of all kinds received in the office for service or execution in the years 1920, 1921 and 1922 and to state that the fees levied in respect of the processes amounted to Rs.7,216-4-0 in 1920, Rs.7,783 in 1921 and Rs.8,891-4-0 in 1922. No commission is levied by the Sheriff in respect of sales, as he has to conduct sales of property attached by him only.

2. Notices of all kinds received by the Sheriff for service are served by a staff consisting of four bailiffs who have also to carry out the duties connected with the various kinds of execution. The quarterly Jury summonses are also served by the bailiffs as well as the Crown subpoenas to the Sessions. The service of these processes takes up much of the time of the bailiffs owing to evasion, and absence from the address given, of parties. A summons is seldom served on a party at the first attempt and in most cases service involves a search for the party. After service is effected bailiffs enter the endorsement of service on the summons and in the Office Register and have also to make affidavits of service. In the case of executions also, bailiffs have to make similar entries on the warrants and in the registers. The execution of a warrant of attachment of movable property keeps a bailiff occupied for several hours and involves heavy work. In the case of a personal arrest the bailiff has to keep charge of the prisoner, produce him before the Judge and take him to the Civil Debtors Jail. This means that the bailiff can do no other work for the whole day.

The cost of the present staff of bailiffs doing all this work is Rs.167 per month.

I consider that, if processes are to be served efficiently a staff at least of four bailiffs would be required in the High Court with some one to supervise their work.

To carry out the work of execution alone without the duty of serving processes, the Sheriff would require a staff of at least three bailiffs, as it often happens that several warrants are received for execution on the same day. Under the existing system in the Sheriff's office bailiffs going out to execute a warrants may also serve a notice or summons they may have with them for service in the particular locality. The opportunity of combining these duties reduces to a great extent the work entailed on them and a separation of duties will only lead to a duplication of staff and increased expenditure without any corresponding increase in efficiency.

XI

Memorandum No.1935 B-4, Law (General), dated 18th December 1923.

(Reorganization of the Sheriff's office - Reference his letter to Government No.D.240/22, dated the 17th November 1922, and his letter to the High Court, D.No.240/22, dated the 5th October 1923)

The Sheriff of Madras is requested to submit to Government through the High Court detailed proposals in respect of the pay to be attached to the post of Deputy Sheriff with incremental scale if considered necessary.

2. He will also report the details of his existing staff for process and execution work with particulars of numbers and salary and report if any reorganization is called for.

R. RAMACHANDRA RAO,
Secretary to Government.

XII

Letter from F.G.BUTLER, Esq., M.A., I.C.S., Registrar, High Court, to the Secretary to Government, Law (General) Department, dated Madras, the 22nd February 1924, R.O.C.No.3270/22.

In continuance of my letter R.O.C.No.3270/22, dated the 12th February 1924, I am directed to forward for the orders of His Excellency the Governor in Council copy of letter D.No.240-C of 1922, dated the 14th February 1924, from the Sheriff of Madras, containing his revised proposals for the revision of his establishment. The Sheriff's first letter containing his original proposals which he was asked to revise, is also enclosed.

ENCLOSURES

(1)

Letter from the Sheriff of Madras, D.No.240/C of 1922, dated the 14th February 1924.

With reference to your R.O.C.No.3270/22, dated 12th February 1924, I have the honour to state that, after perusing your letter, I submit the following revised expenditure on my office establishment:-

	Rs.
Deputy Sheriff	250-25-350
Manager	150-5-175
Accountant	80-5-100
Senior European Bailiff	80
Junior -do-	70
Indian Bailiff	40
-do-	40
Three peons	48 (Scale to be 15-1-20)
Sweeper	2
Lights and fans	19
Telephone	12
Contingencies	4
Total	790

From the above it will be seen the yearly expenditure of my office will amount to Rs.9,480. It is very essential that the Deputy Sheriff should be a lawyer and no one would care to accept a permanent appointment on a salary less than the one proposed. In view of the responsible duty the Manager has to discharge and being in charge of all the properties in the property rooms of the Sheriff and the valuables in the safe, I propose to give him the above mentioned increase. The Accountant is doing both clerical and account work and I propose to put him on Rs.80-5-100 grade. The Senior European Bailiff at present gets Rs.75. I propose to give him an increase of Rs.5 making his salary Rs.80 as representations have been made to me after submission of my last proposal that he is unable to make both

ends meet. The other European Bailiff now gets Rs.62 and I propose to give him Rs.70. With regard to the Indian Bailiffs who now get Rs.27-8-0 each. I consider their pay is very small in view of the very hard work done by them and I therefore propose that they be paid Rs.40 each.

(2)

Letter from the Sheriff of Madras, No.D.240/B of 1922, dated the 16th January 1924.

With reference to your memorandum No.1935-B4, dated the 18th December 1923, I have the honour to state that I agree with the proposal made by the Sheriff in his letter to Government No.D.240 dated the 17th November 1922, that the Deputy Sheriff's salary should be fixed at Rs.250 per mensem rising by an annual increment of Rs.25 to a maximum of Rs.350. The scale of salary suggested is, I consider, very reasonable compared with the salary drawn by the Deputy Sheriff of Bombay, as pointed out in the letter of the Sheriff referred to above and considering the onerous duties of the post. The Deputy Sheriff is responsible for the quick and efficient service of processes and the execution of warrants, and the general supervision of the working of the Sheriff's office.

The Sheriff's staff for carrying out process and execution work consists of

	per mensem Rs.	A.	P.	
One Manager on	125	0	0	
One Accountant on	58	8	0	
One European Bailiff	65	0	0	
One -do-	52	0	0	
One Indian Bailiff	25	0	0	
One -do-	25	0	0	
Three peons	15	0	0	each
One Sweeper	2	0	0	

The total cost per mensem of this staff being Rs.397-8-0.

The responsible nature of the Manager's duties and the heavy clerical work done by the Accountant who is clerk and accountant have been fully explainted by Sir M.C.T.Mutayya Chettiyar and I endorse his opinion unreservedly.

The staff of four bailiffs does both process and execution work, there being no separate staff for service of process, as distinguished from a staff for doing execution work only. The Sheriff grants the staff allowance as under -

	Rs.	A.	P.
The Manager	20	0	0
The Accountant	17	8	0
The European Bailiffs at the rate of Rs.10 each	20	0	0
The Indian Bailiffs at Rs.2-8-0 each	5	0	0
The peons at Re.1 each	3	0	0
Amounting to	65	8	0

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In addition to the pay and allowances of the staff, the Sheriff has to pay a monthly charge for

	Rs.
Telephone	25
Lights and fans	19
Contingencies (about)	5
Total	49

Thus bringing up the monthly working expenses to about Rs.512 or nearly Rs.6,144 per annum. Taking into account expenses connected with the convening of public meetings, this total working expenses will approximately come to Rs.6,200.

The total annual cost of the Sheriff's office is approximately Rs.14,000, made up of Rs.6,000 paid by Government from Provincial funds and of about Rs.8,000 realized from Sheriff's fees.

I consider the present staff sufficient and would not recommend a division of work by separating the process serving work from the duty of execution and placing the former under separate supervision because it will lead only to duplication of staff without any corresponding increase in efficiency, as pointed out by Mr.Mac Dougall in his letter D.240/A, dated the 5th October 1923.

I would recommend a reorganisation on the following lines adopting generally the figures suggested by Sir M.C.T.Mutayya Chettiyar.

		Rs.
Deputy Sheriff	..	250-25-350
Manager	..	175-25-225
Accountant	..	100-10-150
Four Bailiffs on Rs.75 each without distinction of class	..	300
Three peons on Rs.16 each	..	48
Sweeper	..	2
Total		1,075

The total maximum cost of establishment Rs.1,075 per mensem

Adding to this the cost of Telephone which will be Rs.7 per month under the new scheme of a central exchange for the High Court, Rs.19 for fans and lights and Rs.10 for contingencies, the total working costs will amount annually to Rs.13,332 a figure which is less approximately by Rs.668 of the present cost of the Sheriff's department.

Order - No.2387, Law(General),dated 25th August 1924.

The Government have been considering for some time past the question whether the post of Sheriff should not be honorary. They have now decided that with effect from the 1st September 1924 the post shall be honorary, the monthly contribution of Rs.500 now made from the Provincial revenues being discontinued from that date.

2. The fees levied by the Sheriff shall, with effect from the same date, be credited to Government under the head "XVII-B. Administration of Justice - Government fees, fines and forefeitures".

3. The proposals of the Sheriff for the re-organisation of his office have been considered by Government and they are pleased to sanction the following revised scale of establishment for the office:-

		Rs.	
One Deputy Sheriff	..	200-10-250	a month
One Accountant	..	65-4-85	"
One Clerk	..	65-4-85	"
One European Bailiff	..	80	"
One -do-	..	70	"
Two Indian Bailiffs each on	..	25-1-35	

Three peons each on the following scale of pay:-

	Rs.
First 4 years ..	15
From 5 year to 8th year(inclusive)	16
From 9th " 13th -do-	17
From 14th " 19th -do-	18
From 20th " 25th -do-	19
From 26th year onwards -do-	20

The charges on account of the sweeper should be met from contingencies. The establishment will continue on a pensionable basis.

This sanction has been registered as No.88 of 1924-25 and will take effect from the 1st September 1924.

4. The reappropriation statement forwarded by the High Court is sanctioned as amended.

(By order of the Governor in Council)

V.T.KRISHNAMA ACHARIYAR
Acting Secretary to Government.

Pages 1 to 16

Notes connected with G.O.No.2387, Law (General), dated 25th August 1924.

(Subject - Reorganization of the Sheriff's Establishment)

Previous papers:

G.O.No.	668	Judicial	30th April	1863
"	1544	"	30th June	1879
"	776	Finance	7th Aug	1886
"	3239	Judicial	11th Dec.	1884
"	1026-27	"	14th May	1887
"	2596-97	"	20th Dec.	1888
"	1003-04	"	11th June	1889
"	2280-81	"	5th Nov.	1891
"	2019	"	26th Oct.	1892
"	243	"	5th Feb.	1895
"	271-72	"	24th Feb.	1897
"	1782	"	16th Dec.	1897
"	627	"	19th Apr.	1898
"	1242-43	"	9th Aug	1898
"	1724	"	8th Nov.	1898
"	75	"	11th Jan.	1899
"	757-58	"	13th May	1899
"	966	"	20th June	1899
"	1188	"	31st July	1899
"	735	"	25th May	1900
"	933	"	7th July	1900
"	1073	"	6th Aug	1900
"	1807	"	16th Nov	1905
"	897	"	28th May	1906
"	612	"	27th Apr.	1908
"	1448	"	26th Oct.	1909
"	2179	"	31st Oct.	1913
"	767-69	"	13th Apr.	1915
"	2329	"	15th Oct.	1919
"	2621	"	12th Nov.	1919
"	499	Finance	1st June	1920
"	700	"	2nd Aug.	1920
"	780	"	28th Aug.	1920
"	2321	Home (Judicial)	17th Sept.	1920
"	215	Finance	4th Mar.	1921
"	3018	Law (General)	15th Dec.	1923

Law (General) Department

From the Sheriff of Madras, D.No.240, dated 17th November 1922.

(Letter to the Hon'ble the Chief Justice, No.4626 B-2, dated 21st November 1922)

(Endorsement to the Accountant-General, No.4626 B-A, dated 21st November 1922)

Letter from the Accountant-General, Cud.P.A. No.557, dated 13th December 1922.

From the Registrar, High Court, R.O.C.No.7270/22, dated 12th April 1923.

A brief history of the office of the Sheriff and his establishment is given in the Sheriff's present letter. Attention is also solicited to the office-note at pages 1 and 2 of G.O.Nos.767-69, Judicial, dated 13th April 1915. Under the existing arrangement sanctioned by the Government of India in 1898, the Sheriff is allowed to retain the entire fees collected by him and is granted in addition from provincial revenues a monthly allowance of Rs.500 for himself and his establishment. He is also required to maintain a permanent and * pensionable establishment costing Rs.282 per mensem, any extra cost that might be found necessary being paid for from the Sheriff's own pocket.

K

* This was the limit laid down in 1898. But since then the Sheriff's establishment seems to have been allowed some allowance as compensation for high prices and this allowance is also met from the Government grant of Rs.500.

In other words the fees and the balance left over in the monthly grant of Rs.500 referred to above after payment of establishment

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Charges constitute the emoluments of the Sheriff. To ensure permanent tenure and pensionary privileges to the staff, the Government have also laid down that the establishment charges should be a first charge on the monthly Government grant and that the Accountant-General should place at the disposal of the Sheriff only the balance of the grant after paying establishment charges. The scale of staff now employed under the Sheriff is as follows:-

		Rs.
Manager	..	100
Clerk and Accountant	..	45
European Bailiff	..	50
-do-	..	40
Indian Bailiffs at Rs.12 and Rs.13	..	25
Peons at Rs.7 each	..	21
		281 *

* Excludes charges for sweeper.

2. The Sheriff now submits proposals for raising the pay of the existing staff and for the employment of a Deputy Sheriff, a clerk-typist, and Indian bailiff and an additional sweeper. A proposition statement exhibiting the present and the proposed scale of staff has also been appended to the Sheriff's letter. The main reason for the increase of pay to the existing members is the increase of pay sanctioned to members of other establishments owing to the rise in cost of living and that for the additional establishment is the increase in the volume of work now done by the establishment.

The appointment of the Deputy Sheriff is proposed because the work that has to be done is technical and intricate and such an appointment would secure continuity, discipline in office and efficient discharge of work. The Sheriff also proposes that the fees realized by him may be continued to be received by him, the charges on account of the establishment being met from the fees or that the fees may be credited to Government who may bear the charges of the establishment and pay a fixed allowance to the Sheriff, if necessary.

3. The proposals were referred to the High Court for remarks. The High Court has not submitted any conclusive remarks on the proposals but has simply forwarded the minutes of the Hon'ble the Judges.

In the minutes, the following suggestions are made:-

(1) Permanent appointment of the Deputy Sheriff who should not change with the Sheriff.

(2) Making the Sheriff's appointment honorary.

(3) Transfer of service of processes from the Sheriff's establishment to vakils and other practitioners of the Court to be done by their recognized clerks

(4) Taking over the work mentioned in item (3) above by the High Court which should have its own process establishment for the purpose like other courts.

(5) Transfer of the work connected with service

of summons, etc., in civil cases alone to vakils' clerks, the duties of the Sheriff being confined merely to execution in civil cases, preparation of jury lists, besides the functions now devolving on him in connexion with criminal sessions. (The Sheriff is also to be allowed the assistance of a Deputy in the discharge of these duties) - (Note:- This is the Chief Justice's opinion)

(6) Retention of the present arrangement and improving it as much as possible.

It will thus be seen that there is no consensus of opinion among the Judges on the above points.

4. The duties of the Sheriff are regulated by the Letters Patent of 1800, relevant portion of which is extracted below for convenience of reference:-

"And we do further order, direct and appoint, that the said Sheriff and his successors shall, by themselves or their sufficient Deputies, to be by them appointed and duly authorized under their respective Hands and seals, and for whom he and they shall be responsible during his or their Continuance in such Office, execute, and the said Sheriff and his said Deputies are hereby authorized to execute, all the Writs, Summonses, Rules, Orders. Warrants, Commands and Process of the said Supreme Court of Judicature at Madras, and make return of the same, together with the manner of the execution thereof,

to the said Supreme Court of Judicature at Madras, and to receive and detain in prison all such persons as shall be committed to the Custody of such Sheriff, by the said Supreme Court of Judicature of Madras, or by the Chief Justice, or any of the said Puisne Justices of the said Court, respectively."

Except in cases in which he is interested the letters Patent vest in the Sheriff the duty of executing all the orders of the High Court and the power of appointment of the members of his establishment. Any alteration in the nature of his duties or his powers of appointment will seem to require legislation by the Government of India under clause 44 of the Letters Patent of 1865.

5. The suggestions of the Judges are examined in the following sectional notes.

6. A decision on the above questions is necessary for the consideration of the Sheriff's proposals as regards the appointment of a Deputy Sheriff. As regards the increase of pay to the existing members of the establishment, it is submitted that their pay has not undergone any revision since 1898 except that the establishment draw the allowance for high prices at the rates specified in G.O.No. 700, Finance, dated 2nd August 1920, and the expenditure on account of these allowance is of course also met from the Government contribution of Rs.500 per mensem. Increase in their pay may be justified on the altered conditions of the present day,

viz., cost of living, etc., and that increase may, as heretofore, have to be borne by the Sheriff himself, especially because, as admitted by him, there is a marked increase in the income from fees. The question of additional establishment may be considered after a definite decision is arrived at on the suggestions noticed above.

The file may go to Finance for remarks.

M.S.K. 12.5.23   E.A.V. 17.5.23

Perhaps the Judicial Retrenchment Committees may be able to make suitable suggestions as regards the reorganisation of the Sheriff's Office. I would suggest that the file be remitted to the Secretary, Judicial Retrenchment Committee, for obtaining the views of the committee.

2. While the question of increase in the emoluments of the members of the Sheriff's establishment may perhaps lie over till the points mentioned in the sectional notes which follow are decided, there is still one matter on which I should like the office to note, viz the Sheriff's proposal that the fees received by the Sheriff may be credited to Government. Has this question ever been examined before and if so with what result ?

R.V.KRISHNA AYYAR
28.5.23

Prior to 1899, the Sheriff was being paid a fixed salary, the charges of his establishment (except the Deputy Sheriff whose pay was being met by the Sheriff himself whenever one was employed) were borne by Government and the fees collected by him were credited to Government - vide pages 3 and 5 of G.O.No.1242, Judicial, dated 9th August 1898, and paragraph 3 of letter No.758, Judicial, dated 13th May 1899. Finding that the charges on account of the Sheriff fell heavily on the general revenues, India suggested that the fees levied by the Sheriff might be so revised as to reduce the expenditure on account of the Sheriff falling on provincial revenues or that the Sheriff might be paid Rs.500 per mensem, for himself and to meet the expenses of his office and allowed to appropriate the fees himself. The Honourable the Judges were against revision of the scale of fees and the other alternative suggested by India was therefore adopted from 1899 - vide letter No.1783, Judicial dated 16th December 1897, and the correspondence connected with G.Os. Nos. 1242-43, Judicial, dated 9th August 1898. No other discussions are traceable.

M.S.K.
31.5.23   E.A.V.
31.5.23

I do not propose to go into the details set out in the following pages till I get orders on three preliminary points noticed below:-

(1) Should summons, etc, work be entrusted to lawyer's clerks ? See the typed notes of the Judges and the untyped note of the Chief Justice. If it be so decided, the financial effect must be judged before any re-organization can be thought of.

Moreover, even if the experiment be tried, it will only be temporary for some time to come. Pending a successful issue, no orders or any permanent re-organization of the Sheriff's office can be attempted. If however that proposal be dispensed with, the next question is whether it is necessary to create a nazarat for the High Court. It is only when this is also negatived, that it will be necessary to tackle Sir Muttayya Chettiyar's proposals.

(2) Under the letters Patent, is it open for us to pass orders ? Under the letters Patent, page 92, it is for the Sheriff to appoint his Deputy. Has the Government power to direct the appointment of a Deputy Sheriff; to regulate his salary, to direct that he be continued under successive Sheriff's etc.? The only power we have is to regulate the monthly honorarium of Rs.500 and direct the re-appropriation of fees. And the matter will probably have to be re-discussed with every incoming Sheriff.

(3) There is no doubt what so ever that some improvement is necessary. I would ask the present Sheriff pending detailed examinations of any change in procedure, he should be pleased to frame his

establishment on the lines indicated by Sir M.C. Muttayya Chettiyar. If he will not, the matter should be dropped for the current year.

2. I see no object in refering this to the Judicial Retrenchment Committee. The questions involved are intricate and I am not one who believes that that committee is likely to discover panaceas for all this in the civil Judicial Department. The matter does not fall within the terms of reference.

R. RAMACHANDRA RAO -
5.6.23

(1) Permanent appointment of the Deputy Sheriff who should not change with the Sheriff - Prior to 1863, the Sheriff had a permanent deputy whose pay was borne by Government. In G.O.No.668-A, Judicial, dated 30th April 1863, this post was abolished as the Government thought that the work was not more than one man ought to be able to perform, though the then Chief Justice considered the appointment essential. Later, the Sheriff's were appointing deputies at their own cost and it does not appear that the practice was invariable. In 1886, the question of the arrangements to be made for the discharge of the Sheriff's functions in a more economical manner was suggested by the Finance Committee. This Government were then of the opinion that the post of Sheriff might be abolished; or in the alternative that the office of Sheriff might be honorary,

his work being provided for by the appointment of a Deputy Sheriff and process staff paid by Government or by the employment of a paid officer of Government such as the Registrar of the High Court without extra remuneration. The letter to the Finance Committee was wound up with a recommendation for the abolition of the office of Sheriff by the undertaking legislation, if necessary - vide letter No.776, dated 7th August 1886. Again, in 1887, the High Court was asked to advise Government on the proposals of the Finance Committee for reducing expenditure on account of the Sheriff. It stated that the appointment of Deputy Sheriff as a Government post was necessary - vide paragraph 8 of the High Court's letter at page 8 of G.O.No. 1026, Judicial, dated 14th May 1887. This suggestion was not specifically considered by this Government as they had already recommended the abolition of the post of Sheriff itself - vide paragraph 7 at page 14 of letter to India No.1027, Judicial, dated 14th May 1887. In reply to the above letter India expressed themselves against the appointment of Deputy Sheriff as an officer of Government for the reason that the Government would then be responsible for his acts which would be productive of litigation and inconvenience but considered that he should continue to be an employee appointed and paid by the Sheriff and holding office at the latter's pleasure -

vide paragraphs 2 and 3 of India's letter at page 1 of G.O.No.2596, Judicial, dated 20th December 1888. This Government again addressed India on the subject and urged the desirability of the abolition of the office. The reason was that after paying the Deputy Sheriff, the income of the Sheriff was such at the time as would leave practically nothing to the Sheriff. This Government believed that it would be out of the question to find any person for accepting the liability alone without salary or any prospect of pecuniary advantage - vide paragraph 4 of letter No.2597, Judicial, dated 20th December 1888. During the next decade, on certain other matters connected with the Sheriff there was correspondence between this Government and India. In 1899, India sanctioned the scheme which is now in force. On all these occasions it will be seen that the main reason for not sanctioning any increase to the Sheriff's establishment was that the office was not, as expected, paying its way but was throwing a burden on the general revenues. The matter was again mooted for the last time in 1914 by the Madras Chamber of Commerce who proposed the permanent appointment of a Deputy Sheriff to ensure continuity of system in the Sheriff's office and for the permanent removal of the disability from which the jurors had been suffering. The Hon'ble Sir Harold Stuart declined to sanction any additional expenditure on account of the Sheriff for the reason that the work done by the Sheriff was very simple and the Manager of the office

should be sufficient to secure the objects which the Chamber had in view.

During the years 1908 and 1913, the then Sheriff requested the sanction of Government for increasing the pay of the members of their establishment on the ground of increase of work. But they did not then propose to have a permanent Deputy Sheriff.

Thus it will be seen that the High Court's proposal and the Sheriff's to have a permanent Deputy Sheriff was considered before; the argument now advanced in favour of the proposal, viz., continuity and increase of work, were also urged on those occasions. In respect of increase of work, it was recognized that the remedy was increased establishment. No doubt with the increase in the number of Judges on the Original side, the work of the Sheriff should have also increased. It may also be conceded, as pointed out by the Chief Justice, that the work of the Sheriff in respect of civil cases requires legal knowledge. For these reasons, the appointment of a Deputy may be deemed essential, and it is obviously the reason why successive Sheriffs have been employing a Deputy. But the question is whether the appointment of the Deputy should be a Government post. On this question the Government of India remarked as follows:- "If the Deputy Sheriff were an officer of Government, the Government would be considered responsible for his acts, and indemnity might not be so readily given" - Paragraph 2 of page

1 of G.O.No.2596, Judicial dated 20th December 1888. This reason would still seem to hold good and militate against the acceptance of the proposal. Apart from this, it would mean additional expenditure to Government by way of salary and pension. If, however, the pay of the Deputy is deducted, as proposed by the Sheriff, from the allowance paid to the Sheriff, there will practically be nothing left to the latter. As once pointed out by this Government it is scarcely likely whether any person would accept only the responsibilities of the post of Sheriff in the absence of any pecuniary advantage - paragraph 5 on page 6 of G.O.No.2596, Judicial, dated 20th December 1898. This might later on lead to an application for raising the monthly Government grant of Rs.500. For orders whether in the circumstances the proposal will be accepted.

M.S.K.
12.5.23

E.A.V.
17.5.23

If the Deputy Sheriff be made permanent, the post of manager may perhaps be abolished.

R.V.Krishna Ayyar
28.5.23

2. Making the Sheriff's appointment honorary:- As stated above, this suggestion was also considered in the years 1886-1888. This Government were not against making the Sheriff's appointment honorary and were always for its abolition - vide letter No.776, dated 7th August 1886. At the same time this Government

also recognized that it was out of the question to find any person willing to accept the liability without salary or any prospect of pecuniary advantage - vide paragraph 4 at page 6 of G.O.No.2596, Judicial, dated 20th December 1888. India was also inclined to this view then - vide paragraphs 4 and 5 on page 7 of G.C.No.2019, Judicial, dated 26th October 1892. India therefore proposed that the Sheriff should be a honorary officer divested of all duties except those of a ceremonial nature. This Government were not for the proposal and reiterated their former view that the post should be abolished - vide letter No.2281, Judicial, dated 5th November 1891. But the matter was not pursued further.

2387, Law (General)
25.8.1924.

In 1897 Mr.Justice Shepherd expressed the opinion that he was not for an honorary Sheriff - vide page 3 of G.O.No.1242, Judicial, dated 9th August 1898. Under the present proposal, i.e., by making the post honorary, the Sheriff is not stripped of all responsibility. For, it will be seen from the minutes of the Hon'ble the Judges, that only the service of civil processes is proposed to be taken away from the Sheriff while execution and work connected with criminal cases is to be retained in him. As pointed out above, it appears doubtful whether it would be possible to find a person to take up even this reduced

responsibility without salary or prospect of pecuniary advantage. On the question of emoluments, a former Sheriff expressed that there should be an increase in "the emoluments of Sheriff to a figure which might prove a sufficient inducement to a gentleman of social position to devote a portion of his time to the work as a supplement to other sources of income" - vide paragraph 5 at page 2 of G.O.No.1724, Judicial, dated 8th November 1898. It would thus appear that the suggestion to make the Sheriff's appointment honorary and at the same time to make him responsible for the work appears rather impracticable. For orders.

M.S.K. 12.5.23 E.A.V. 17.5.23

If the Deputy Sheriff is made permanent and will relieve the Sheriff of all his responsible duties, the Sheriff's post may well be honorary.

R.V.Krishna Ayyar
28.5.23.

(3) Transfer of service of processes from the Sheriff's establishment to vakils and other legal practitioners of the court to be done by their recognized clerks - It appears from the Chief Justice's minute that in England this work is left to the parties and solicitors. The difference between the English practice and the present proposal is that while under the former the work is done by responsible men, the latter entrusts the work to the clerks

of vakils. It may be noted at the outset that so far as this Presidency is concerned, the objection raised against the proposal by Venkatasubba Rao, J., seems weighty and deserving of serious consideration. He points out that owing to the precarious tenure of office of the vakil's clerks and their lack of responsibility, it will be nothing short of grave danger to adopt the suggestion. He is therefore entirely opposed to the change advocated. Further this question was exhaustively considered by the Government of India and they were of the opinion that the work of serving of processes was best done by an establishment under Government as it conduced to efficiency. That is the reason why the cost of the process establishment of the Sheriff is now being borne by the Government - vide India's letter at pages 5-8 of G.O.No.2019, Judicial, dated 26th October 1892. The High Court was not in 1892 for altering the existing system - page 9 of the above Government Order. The Vakil's Association is against the proposal but the Attorneys' and Bar Association are in favour of it. It will therefore be seen that the present suggestions seem opposed to the view of India as well as this Government who have previously favoured a scheme by which processes could be served through official agency.

M.S.K. 12.5.23 E.A.V. 17.5.23

Please see the extract from the charter quoted on pages 2 and 3 ante. The Sheriff is enjoined to execute all processes issued by the High Court. The Advocate-General will have to be consulted whether legislation is necessary to achieve this result in case it is considered desirable.

R.V.K. 28.5.23

(4) Transfer of the work mentioned in item (3) ante to the High Court to be transacted by its establishment - It will be seen from the notes ante that it does not seem in the first instance open to any obvious objection since it is in accordance with the view of this Government that processes should be served by official agency. At present the work is done by official agency but under the control of the Sheriff. The proposal is to shift the control from the Sheriff to one of the officers of the High Court. If the proposal is to be accepted, the remarks of the Sheriff and the High Court have to be invited on this specific question, though at present there appears to be a concensus opinion among the Judges on this point.

M.S.K. 12.5.23 E.A.V. 17.5.23

Same remarks as on page 6.

R.V.Krishna Ayyar 28.5.23.

(5) Transfer of the work connected with service of summons, etc., in civil cases alone to vakils' clerks, the duties of the Sheriff being confined merely to execution in civil cases, preparation of jury lists besides the functions now devolving on him in connexion with criminal sessions. This has already been considered above and no detailed remarks appear necessary.

M.S.K.	E.A.V.	R.V.K.
12.5.23	17.5.23	28.5.23

(6) Retention of the present arrangement and improving it as much as possible - This is the proposal of odgers, J. No specific remarks are now called for in the absence of definite suggestions as to how the aim is to be achieved.

M.S.K.	E.A.V.	R.V.K.
12.5.23	17.5.23	28.5.23

The whole basis of the system appertaining to the Shrievalty in Madras requires reconsideration. A prominent and wealthy citizen is appointed Sheriff presumably because the honour of being what is called "the foremost citizen of Madras" for a year affords sufficient incentive to important persons to accept the office. The duties of the office are confined, beyond the ceremonial appearance during the criminal sessions in court dress, to the service of summons and processes issued on the Original Side of the High Court. In reality the work is often done by a

delegate called the Deputy Sheriff who corresponds with the Nazir in the Sub-Courts and Munsif's courts.

2. The net result however of the existing practice is that the wealthy and important citizens who accept this honour derive a comfortable income during the tenure of their office amounting to about Rs.500 or Rs.600 per mensem. One Sheriff who shall be nameless appointed a certain person as Deputy Sheriff on Rs.100 per mensem and pocketed practically all the rest of the fees curtailing his establishment greatly. Now it seems to me that the whole matter requires thorough and careful scrutiny.

3. I am in entire agreement with the views of the Hon'ble Mr.Justice Coutts Trotter who has had considerable experience on the Original Side and who says that as the Sheriff is invariably a prominent and wealthy citizen his salary might be abolished. A permanent salary might be given to the Deputy Sheriff who should not be liable to automatic removal on change of the Sheriff but who will, until the Letters Patent are altered, be normally reappointed at the instance of the incoming Sheriff unless there exist reasons to the contrary. I know personally that changes in the Deputy Sheriff's post have led to very unequal modes of discharge of the duty, one Deputy Sheriff being completely deaf and partially blind in addition to being ignorant of the procedure on the Original Side. Some of us who practised on the Original Side had tremendous difficulties because

the Sheriff for the time being chose to exercise his compassion rather than his discretion.

4. The English practice is that the Sheriff does not get any remuneration or honorarium for his work. In the language again of Justice Coutts-Trotter" the appointment of Deputy Sheriff ought not to be a shifting patronage in the hands of the Sheriff."

5. I am not in favour of allowing vakils clerks the entire jurisdiction in the matter of the service of summons and notice. In certain cases as pointed out by the Hon'ble Mr.Justice Kumaraswami Sastriyar, this will lead to fraud and as a matter of fact in the matter of the service of notices of motion and Judges' summonses on the original side by the vakils' and attorneys' clerks a great deal of dissatisfaction has been expressed in as much as not unoften orders have been obtained on the basis of proof of service on persons who were not as a matter of fact so served. I am aware of at least two Original Side appeals in which the facts regarding the service by vakils' and attorneys' clerks disclosed a deplorable state of affairs on account of the collusion of the party interested in the matter with the clerk in swearing to a false affidavit. It seems to me that logically the High Court should have fairly complete control over its process service and the only way in which this can be done, if we have to

preserve the time honoured official called the Sheriff, is to put him in a class apart and have some other officer who would be distinctly and directly amenable to the High Court though under the present letters patent he would also be in theory amenable to the control of the Sheriff. This would be a much more cheap and efficient system than we have at present. It is noticeable that Mr. Justice Coutts - Trotter who has been sitting fairly continuously on the Original Side and Mr. Justice Kumaraswami Sastriyar who has had great experience on the Original Side both as a lawyer and as Judge and Mr. Justice Venkatasubba Rao whose practice lay entirely on the original side share this view.

6. Turning now to the memorial of Sir Mutayya Chettiyar, it is extremely interesting as a piece of historical research, But I do not think it carries the case any further and the system by which a layman who in the language of Justice Venkatasubba Rao "is not conversant with the work of the High Court and has very little time at his disposal and exercises only nominal supervision" is allowed to retain the entire fees collected and is granted in addition from provincial revenues a monthly allowance of Rs.500 for himself and his establishment is wholly indefensible. The observations is paragraph II at page 4 of G.O.No.668-A, dated 30th April 1863 may also be usefully referred to in this connexion.

At page 14, paragraph 19, it was noticed that, as early as 1863, the office of Sheriff at Madras was notoriously a sinecure, the actual work being performed by the Deputy.

7. It is no doubt true, as pointed out by the Law Secretary, that the Letters Patent at pages 91 and 92 provides for the appointment of a Sheriff and speaks of the Sheriff appointing a sufficient Deputy. It is a matter for investigation how far the power under section 129, Civil Procedure Code, can be utilized to carry out the above ideas consistently with the Letters Patent, and also how far the Letters Patent need modification if the above idea has to be carried into effect. In any case, and whatever may be the difficulties arising out of a contemplated abolition of the Deputy Shrievalty, it seems to me there is absolutely no difficulty in our prescribing and altering the fees or limiting them.

8. With reference to the preliminary points indicated in the Law Secretary's note, my view on (1) has already been expressed.

Under (2) I do not feel any difficulty about fixing the salary of the Deputy Sheriff, and sections 106 and 107 of the Government of India Act would enable us to fix the remuneration and in addition regulate the honorarium and direct the appropriation of fees.

Though the Law Secretary is perhaps correct in assuming that the Judicial Retrenchment Committee is not likely to discover a panacea for everything under the sun, yet for this particular purpose it is at least as efficient a body as any laymen, and I would therefore refer the matter to the Judicial Retrenchent Committee.

9. I would only observe in addition that the Bengal Retrenchment Committee and the Bengal Government appear to have felt no difficulty in recommending a similar course with reference to the Calcutta Sheriff.

C.P.R. (RAMASWAMI AYYAR)
7.6.23.

Draft memorandum submitted. In their report, the Judicial Retrenchment Committee have recommended that the appointment of Sheriff should be honorary and that his establishment and work connected with service of processes should be transferred to the High Court. These questions are dealt with in this file. It is presumed that no further action is needed at present on that recommendation.

This may be referred as usual to the High Court for its opinion
N.K.23.6.23

N.S.K.	S.A.	N.Kailasa Sarma
22.6.23	22.6.23	23.6.23

(Issued as Memorandum No.1935/B-1, dt.25th June 1923)

From the Judicial Retrenchment Committee No.103-1, dated 14th August 1923.

Submitted with the Committee's letter at page 11 current file. For orders whether the letter to the High Court in the linked file may now issue.

M.S.K.	P.S.R.	C.Govindan Nayar
15.8.23	15.8.23	16.8.23

Draft for approval.

R.RAMACHANDRA RAO
20.8.23

The Judges of the High Court and the Bar, Vakils' and Attorneys' Associations were consulted both regarding the reorganization of the Sheriff's office and as to the service of processes through vakils' and attorneys' clerks. Some of the Judges have declined the responsibility of forming an opinion and the others have differed inter se and the differences are fundamental. In the language of the Registrar, the views expressed are most divergent, but on one matter opinion seems to be fairly unanimous, namely, that the Sheriff's office should be treated as honorary. I therefore see no point in consulting the Judges again on this question and I am of opinion that the Government should express its views on this matter atonce and declare that the Sheriff's office would be honorary from and after the 1st December when the new Sheriff will be appointed. It follows that the proceeds from process fees

and commission levied by the Sheriff should be credited to the Government.

Another decision has also evoked influential opinion in its favour, i.e., that processes should be served by an establishment attached to the High Court, the present establishment placed under the Sheriff being treated as part of the High Court establishment. To this extent, therefore, it is unnecessary to consult the Hon'ble the Judges. The only point on which the High Court need be consulted is about the permanent Deputy Sheriff and what the proposals of the High Court would be in order to secure the permanency of the tenure which, by the way, is advocated by the Hon'ble the Chief Justice in his minute. His remuneration and the utilization of the High Court's power under the Government of India Act, the Letters Patent and the Civil Procedure Code so as to frame rules as to the Deputy Sheriff and the establishment may also be matters on which the High Court may be consulted.

In the result, the High Court will be informed that in the opinion of the Government, the Sheriff's salary should be abolished and the place should be an honorary one; (2) the process-serving establishment should be attached to the High Court and the fees collected would be credited to Government; (3) the Government favour the appointment of a permanent Deputy Sheriff and would invite the

opinion of the Hon'ble Judges as to the salary to be attached to the office and the utilization of the powers of the High Court under the Government of India Act, the Letters Patent and the Civil Procedure Code for the purpose of creating such permanent appointment. Their attention may be invited to the provisions of the Letters Patent regarding the power of nomination of a Deputy Sheriff possessed by a Sheriff.

C.P.R.(RAMASWAMI AYYAR)
21.8.23

Draft submitted for approval.

C.S.D.	P.S.R.	C.G.N.
27.8.23	28.8.23	29.8.23

C-3 and full circulation

R.R. 1.9.23

Draft approved with some alterations

C.P.R.(RAMASWAMI AYYAR)	2.9.23
R.A.G.(RAHAM)	7.9.23
C.G.T.(ODHUNTER)	8.9.23
M.H.(ABIE-UL-LAH)	8.9.23
W.(ILLINGDON)	12.9.23

(Letter No.1935-B/2, dated the 13th September 1923)

From the Registrar, High Court, R.C.C.No.3270/22, dated the 27th November 1923.

The Hon'ble the Judges say that the question whether the office of the Sheriff should be honorary is one that does not concern them and that they have no objection to the proposal.

2387, Law (Genl) dt.25.8.1924

2. As regards the Deputy Sheriff, they consider that if it is proposed to transfer the execution work also to the High Court, which will of course require an amendment to the Charter of 1800, there will be no need for a Deputy Sheriff at all. In regard to the question of making the post permanent, they state that, as under the Charter, the Sheriff appoints his Deputy and is responsible for his acts, there might be some difficulty in continuing his responsibility when the appointment no longer rested with him. They add that though it might be made a condition precedent, to the appointment of a Sheriff that he should reappoint the existing Deputy, it is doubtful whether this condition will be accepted by men eligible for the office. Please see in this connection the notes at pages 3-5.

3. In regard to the process serving establishment the Hon'ble the Judges deprecate dual control since the transfer of execution work cannot be effected without an amendment to the charter.

4. For orders.

C.S.D. 10.12.23

P.S.R. 10.12.23

Having regard to the above proposals, if becomes necessary to determine (1) the pay of the permanent Deputy Sheriff, (2) the strength and pay of the process-serving establishment required in the High Court and (3) the strength and pay of the Sheriff's establishment to carry out execution, etc.,

Copy of the Sheriff's letter, dated 5th October 1923, at page 13, current file, gives some particulars on some of the above points, but all the necessary details are not given in it. Reference may be made to the Sheriff to furnish full details. Please put up draft.

C.GOVINDAN NAYAR - 10.12.23

Draft submitted. The Sheriff may be asked to submit his proposals through the High Court.

C.S.D. 12.12.23 P.S.R. 13.12.23

Before issuing the above draft, one point requires to be definitely settled, namely, whether the process serving establishment is to be attached to the High Court while execution is done in the Sheriff's Department. Execution work cannot be transferred to the High Court without amending the Supreme Court Charter of 1800. The High Court observe "that if it is not proposed to transfer the executive work, it is certain that the division of functions will not result in any saving, for it is undoubtedly more economical to have the process and execution work done by the same staff than to duplicate by giving process-serving to the High Court and execution work to the Sheriff." The Hon'ble Member C-3 has, no doubt, observed that" the decision that processes should be served by the High Court has evoked influential opinion in its favour". But having regard to the opinion of the High Court quoted

above and of the financial point of view, it is for consideration if the process-serving establishment may not continue to be attached to the Sheriff's Office. The Deputy Sheriff is also going to be made permanent. Perhaps the process-serving and execution may work satisfactorily and economically under him. It may be desirable to watch for some time how the work is done before introducing any change.

I agree
C.P.R(AMASWAMI AYYAR)

In these circumstances, it is for consideration, if the question of removing the process-serving establishment from the control of the Sheriff may not be deferred for the present and only taken up again if the result under the permanent Deputy Sheriff proves unsatisfactory.

C.G.N. 13.12.23

I agree

R.RAMACHANDRA RAO 13.12.23

I also agree with the suggestion made by the Assistant Secretary. I take it that each incoming Sheriff will formally order the continuance of the Deputy Sheriff and his establishment.

C.P.R(AMASWAMI AYYAR)
16.12.23

Revised draft submitted.

C.S.D. 17.12.23 P.S.R. 17.12.23

May issue
C.G.N. 18.12.23

Issue as added to

R.RAMACHANDRA RAO 18.12.23

(Memorandum No.1935 B-4, dated 18th December 1923)

From the Registrar, High Court, R.O.C.No.3270-22, dated the 22nd February 1924.

In the memorandum at page 13, current file, the Sheriff was asked to submit proposals in respect of the pay to be attached to the Deputy Sheriff and to make detailed proposals if necessary for reorganization of his existing staff for process and execution work. The following statement gives in one view the pay now drawn by the establishment, the pay proposed by Sir Muttayya Chettiyar the then Sheriff, and the pay proposed by the present Sheriff:-

	Existing scale	Pay recommended by Sir Muttayya Chettiyar	Pay proposed by the present Sheriff
	Rs.	Rs.	Rs.
Manager	125(a)	175-25-225	150-5-175
Accountant	58.8(b)	100-10-150	80-5-100
European bailiff	65*	65	80
-do-	52*	52	70
Indian bailiff	25**	25-2½-35	40
-do-	25**	-do-	40
Three Peons	(at Rs.15) 45(c)	at Rs.20 60	at Rs.15-1-20)48
One sweeper	2	3	2
Deputy Sheriff	New appointment	250-25-350	250-25-350
Clerk-typist	-do-	35-5-75	Nil
One sweeper	-do-	2	Nil

* Plus an allowance of Rs.10

** Plus an allowance of Rs.2-8

(a) Gets an allowance of Rs.20

(b) Gets an allowance of Rs.17-8

(c) Gets an allowance of Re.1 each

2. Existing posts - The pay proposed by the present Sheriff seems reasonable. But the following call for remarks:-

A Manager - The duties of the Manager will be found at page 5, current file, In view of the proposed appointment of a Deputy Sheriff, it is for consideration whether this post may not be abolished.

New posts - The present Sheriff does not recommend the employment of an additional sweeper and the appointment of a clerk-typist. The maximum pay proposed for the Deputy Sheriff may perhaps be accepted. It is for consideration whether the minimum may not be Rs.200 and the amount of increment Rs.15. The maximum would then be attainable in ten years. In this connexion it may be pointed out that the minimum pay of the Drafting Superintendent - a post which requires legal qualifications - is only Rs.200.

3. The total cost of the Sheriff establishments as at present, as proposed by the Sheriff and as modified by the office, is as follows:-

As at present	As proposed by the Sheriff	As modified by the office
Rs.	Rs.	Rs.
582 per mensem	895 per mensem	701 per mensem
Or	Or	Or

**	6,984 per annum	10,740 per annum	8,412 per annum
**	Includes Rs.588 for contin- gencies	Rs.360 for contingencies.	

4. The Government are now contributing Rs.6,000 per annum towards the cost of the establishments and the receipts which average about Rs.7,000 a year and

	Rs.	
Fees	7,000	
Government contribution	6,000	
	13,000	- 8,412 = 4,588
-	10,740	
	2,260	

hitherto pocketted by the Sheriff will in future be credited to Government. The net saving to Government will therefore be in future Rs.2,260/-, if the Sheriff's proposals are accepted in toto and Rs.4588 if the proposals are revised as suggested by the office.

5. The remarks of Finance may be invited.

C.S.D. P.S.R.
1.3.24 4.3.24

As regards A at Page 11 ante - As the office of the Deputy Sheriff is to be made permanent, it will be possible for him to attend to much of the office work now done by the manager. Hence it is for consideration if the post of the manager may not be abolished. At any rate two such highly paid officers as the Deputy Sheriff and the manager appear to be unnecessary and if it is considered necessary to give some assistance

to the Deputy Sheriff, he may be given an additional clerk on much less pay instead of a highly paid manager.

C.GOVINDA NAYAR 8.3.24

The pay of the Deputy Sheriff may be fixed at Rs.200-15-350

In addition when we shall require a correspondence clerk, I would fix his pay at Rs.50-5-100, and also fix the accountant's pay likewise.

Otherwise the Sheriff's proposals may be accepted.

R.RAMACHANDRA RAO 10.3.24

Finance Department

The Sheriff of Madras is now paid by Government Rs.500 per mensem out of which he has to maintain a permanent and pensionable establishment costing about Rs.463 per mensem or Rs.5,556 per annum and is also permitted to retain the entire process and other fees collected by him amounting to about Rs.7,000 per annum on an average.

2. The proposals in the file are:-

(i) to make the post of Sheriff honorary.

(ii) to stop the contribution of Rs.6,000 now made to the Sheriff for meeting the cost of his establishment and also to credit to Government the fees of Rs.7,000 per annum now collected by the Sheriff, and

(iii) to reorganize the Sheriff establishment by appointing a permanent Deputy Sheriff and by revising the pay of the existing staff.

3. Proposals (i) and (ii) in paragraph 2 above which result in a saving to Government may be agreed to in Finance

Proposal (iii) - The extra cost involved in the Law Department proposal is as shown below:-

Present staff

		Cost per mensem Rs.
Manager (Rs.125+20)	..	145
Accountant (Rs.58½ + 17½)	..	76
European bailiff (Rs.65 + 10)	..	75
-do- (Rs.52 + 10)	..	62
Two Indian bailiffs (Rs.25 + 2½)	..	55
Three peons (Rs.15 + 1)	..	48
One Sweeper	..	2
		463 per mensem
	or	5,556 per annum
Pensionary contribution		1,389
Cost of establishment		6,945 per annum
Extra cost on account of Contingencies		588
	Total cost	7,533 per annum

Proposed staff		Cost per mensem Rs.
One Deputy Sheriff (Rs.200-15-350)	..	291.2/3
Clerk (Rs.50-5-100)	..	80.2/3
Accountant (Rs.50-5-100)	..	80.2/3
European bailiff	..	80
-do-	..	70
Two Indian bailiffs (Rs.40)	..	80
Three peons (Rs.15-1-20)	..	52½
One sweeper	..	2
		737½
	or	8,850 per annum
Pensionary contribution		2,212½
		11,062½ per annum
Establishment will be		4,117½ "
Contingencies		432
		11,494½ per annum

Deputy Sheriff:- The work of the Deputy Sheriff cannot be said to be more onerous than that of the Manager, Administrator-General's Office, whose scale of pay is Rs.200-10-250. It seems sufficient to adopt a similar scale to the Deputy Sheriff.

K | Clerk on Rs.50-5-110 is proposed in the place of the present manager whose post is to be abolished on the appointment of a Deputy Sheriff. The necessity for this clerk has not been clearly established. The Law Department may be requested to omit this item. The clerk may be sanctioned later if the Sheriff addresses Government making out a case for this additional appointment.

W Accountant - The proposed scale of Rs.50-5-100 does not conform to any of the existing scales. The accountant in the Administrator-General's Office is given a scale of Rs.65-4-85; a scale of Rs.40-40-2½-65-3/2-80 seems sufficient in the present case as accountants in the Collector's office get only Rs.35-60.

European bailiffs - Proposed pay 1(80) and 1(70) may be accepted.

X Indian bailiffs - As in the case of Small Cause Court bailiffs, these may be allowed a scale of Rs.25-1-35

Peons - No remarks

Sweeper - As the cost should be met from contingencies, it does not seem necessary to include this post under establishment.

In view of the savings involved in the proposals (i) and (ii) in paragraph 2 on page 12, the Law Department proposals in item (iii) of paragraph 3 may be accepted subject to the remarks above.

A.B.	D.A.	R.W.DAVIES
11.4.24	11.4.24	12.4.24

LAW (GENERAL) DEPARTMENT.

Submitted for orders. As regards the necessity for a clerk in lieu of the manager, reference is solicited to the former Secretary's note on page 12 supra. He thought that a correspondence clerk was necessary on the abolition of the post of manager.

As to the accountant, the average cost (Rs.80.2/3) of the scale proposed by the former Secretary Rs.50-5-100 against Rs.80-5-100 proposed by the present Sheriff is not much above the existing pay plus allowance Rs.76 (Rs.58½ + 17½).

P.S.R. 16.4.24

C.GOVINDAN NAYAR 16.4.24

I accept Rs.200-10-250 for the Deputy Sheriff, It must be possible to get a suitable man on this pay.

2. A clerk - A senior clerk's place is necessary to attend to the correspondence work which will be heavy. As the manager's post is abolished, a clerk on Rs.50-5-100 may be sanctioned.

3. Accountant - The account work is heavy and I suggest Rs.60-4-85 as in the Administrator-General's office.

4. Will Finance agree to these proposals ?

V.T.Krishnama Achariyar.
24.4.24

FINANCE DEPARTMENT (E.R)

K and paragraph 2 above - It does not seem necessary to sanction a clerk now. As already stated, the proposal may be considered when a clear case for a clerk is made out by the Sheriff based on experience gained by working with the staff accepted in Finance.

2387, Law (Genl) - 25.8.1924

2. W on page 13 ante and paragraph 3 - There is nothing to show that accountant's work in the Sheriff's office will be as heavy as that in the Administrator-General's office but in view of the larger establishment in the latter office, it seems, there are reasons to believe the contrary. Further, the present incumbent of the accountant's post who is drawing Rs.76 per mensem can go up to Rs.80. The scale (Rs.40-40-2½-65-3/2-80) already suggested in Finance seems sufficient.

A.B. 26.4.24 D.A. 28.4.24

The proposal to appoint a clerk need not, I think, be further resisted. The pay of the clerk and of the accountant may both be on the scale Rs.65-4-85 which is the ordinary city scale.

R.W.DAVIES
1-5-24

I accept. Draft.

V.T.KRISHNAMA ACHARIYAR
2-5-24

Draft submitted. It may go to Finance for acceptance.

2. In regard to the continuance of the Deputy Sheriff, submitted that it seems enough if it is made a condition precedent to the appointment of every incoming Sheriff.

3. It is presumed that the present manager whose post has been converted into that of clerk will be given a personal allowance in addition to his pay on the maximum scale for that post.

C.S.D.	P.S.R.	C.GOVINDAN NAYAR	V.T.K.
10.5.24	12.5.24	13.5.24	14.5.25

Type as revised.

2. Is it not likely that the manager will be appointed Deputy Sheriff, If there is a chance of it why mention anything about his personal allowance? Why not wait and see what the Sheriff proposes ?

V.T.K. 15-5-24

Draft typed and submitted.

2. With reference to paragraph 2 of the Secretary's note above it is understood that there is already a Deputy Sheriff working in addition to the Manager who is paid by the Sheriff.

It is likely that he may be continued by the Sheriff and made permanent. The provision about personal allowance of manager continues in the draft.

C.S.D.	P.S.R.	C.G.H.
16-5-24	16-5-24	17-5-24

Let us omit paragraph 4. If any personal allowance should be needed, the Sheriff will come up.

V.T.K. 17-5-24

Finance Department (E.R)

(Previous Finance notes on pages 12 and 13 ante)

Law may be requested to adopt the scale of Rs.25-1-35, suggested in Finance, in lieu of a fixed

pay of Rs.40 per mensem proposed for each of the two Indian bailiffs.

2. Subject to the above remarks, the draft order may be accepted and the sanction registered as No.88 of 1924-25.

A.B.	D.A.
20.5.24	20.5.24

3. Funds - The reorganization of the Sheriff's establishment is proposed to be given effect to from 1st June 1924.

	Rs.
Provision in the budget is (at 500 per mensem)	6,000
Less amount payable for 3 months	1,500
So the net amount available for expenditure is	4,500

Against this amount, the expenditure on account of the establishment as revised for nine months including contingencies, works out to Rs.5,886 *. The extra amount

	Rs.		Rs.
* Deputy Sheriff	200	Sweeper (1)	2
Ex-Manager as clerk	85	Contingencies	36
Accountant	77	Monthly	654
Bailiffs	80	9 x 654 =	5,886
-do-	70		
Indian bailiffs (2)	56		
Peons (3)	48		

necessary is Rs.1,386. Submitted that the Law Department may be requested to state with reference to Memorandum No.219/II-1, dated 26th July 1923, how they propose to meet the expenditure in the current year, before the issue of the draft order.

N

R.R. 20-5-24

V.GOPALAKRISHNA AYYAR 21.5.24

R.W.DAVIES 23.5.24

LAW(GENERAL)DEPARTMENT

The scale proposed by Finance for the Indian Sheriffs has been adopted.

2. With reference to Finance note regarding funds submitted that the High Court may be requested to meet the extra cost by reappropriation. A paragraph has been added to that effect. N

3. The file may be sent to Finance U.C.

C.S.D. 26.5.24 P.S.R. 26.5.24

C.GOVINDAN NAYAR 26.5.24
V.T.KRISHNAMA ACHARIYAR 27.5.24

FINANCE DEPARTMENT

Please see portions marked N. The intention K is that information as to the specific source of reappropriation should be obtained before issue of the draft. Paragraph 4 of the draft is not sufficient. Law (General) may be requested to take action with reference to K above.

C.R.S.
28.5.24

The specific attention of Law was invited, not for the first time, to Finance Memorandum No.219 B/ II-1, Finance dated 26th July 1923. Perhaps that memorandum is not sufficiently clear. The effect of the Memorandum is, however, that, where reappropriation is necessary, a reappropriation statement should be obtained before the order is issued.

R.W.D.
28.5.24

LAW(GENERAL)DEPARTMENT

Draft letter to the High Court calling for a reappropriation statement is submitted.

C.S.D. 30.5.24 P.S.R. 2.6.24

May issue

C.G.N. 2.6.24

(Issued as letter No.1935-B4/23, dt.the 4th June 1924)

From the Registrar, High Court, R.O.C.No.3270/22, dated the 18th July 1924

Endorsement of the Accountant-General No.A.A.XIIIV-709, dated 29th July 1924.

The High Court has forwarded a reappropriation statement.

2. Revised draft submitted. Effect may be given to the proposals from the 1st September 1924, The draft may go to Finance for acceptance.

C.S.D. 31.7.24 P.S.R. 31.7.24 C.G.N. 31.7.24 V.T.K. 2.8.24

Type the 'revised' draft.

V.T.K. 5.8.24

Revised draft typed and submitted.

C.S.D. 2.8.24 P.S.R. 2.8.24 C.G.N. 4.8.24

FINANCE DEPARTMENT(E.R)

The revised draft order may be accepted.

2. The High Court has forwarded a reappropriation statement to meet the extra cost on the assumption that the reorganization will take effect from 1st June 1924) as was originally proposed; but it is now proposed to give effect to it from 1st September 1924). Consequently

there will be a saving of Rs.462 in the sum of Rs.1,386 available for reappropriation. Law may be requested to state whether this amount cannot be resumed.

M.P. 6.8.24 | C.A.S. 8.8.24 | R.W.DAVIES 8.8.24

LAW(GENERAL)DEPARTMENT

The Finance Department has accepted the revised draft.

2. The question as to the resumption of a portion of the sum of Rs.1,386 raised in paragraph 2 of the Finance note cannot be answered without consultation with the High Court. Submitted that this may be done separately. Meanwhile orders are requested as to circulation. The original proposals in regard to the changes in the Sheriff's office and his establishment were put to the High Court (Letter No.1935/B-2, dated 13th September 1923), after full circulation. The main alteration made in the original proposals is in regard to the process-serving establishment which it has been decided to leave undisturbed. For orders whether in view of this alteration in the original proposals, the file has to be given full circulation again.

P.S.R.
19.8.24.

If it is decided to circulate a brief summary of the notes will be put up.

C.GOVINDAN NAYAR
21.8.24

Issue. The changes are slight and I do not think we need circulate again.

V.T.KRISHNAMA ACHARIYAR
22.8.24

(G.O.No.2387, Law General), dated 25th August 1924)

Extract taken from G.O.No.177, Public dt.24.2.34

Pages 15 to 18

Letter 177 , dated 24.2.34 Public (Special) Department
Ms

To
The Secretary to the Government of India,
Reforms Office,
New Delhi.

Sir,

Sheriff - Appointment of - authority under the new constitution.

The office of Sheriff was instituted in Madras by the Royal Charter of the 24th September 1726 (13 George I), and under the Letters Patent of 1800 establishing a High Court of Judicature at Madras the Sheriff shall be appointed by the Governor in Council. Ever since its first institution appointment to the office has been made by the Governor in Council.

2. Under the present constitution the administration of justice is a reserved provincial subject. The Ministers, who administer only transferred subjects, have therefore no voice in the appointment of this judicial officer, which is still made by the Governor in Council. The question has been raised as to the authority competent to appoint the Sheriff under the new Reformed Constitution.

3. According to the proposals contained in the White paper, the whole administration of the

Province will be entrusted to the Governor, who will be aided and advised by a Council of Ministers, except as regards matters left by law to his discretion and the administration of excluded areas. It will be for the Governor to determine in his discretion whether any of his special responsibilities are involved by any given circumstances. In the opinion of the Madras Government, it is improbable that any of the "Special responsibilities" of the Governor will be affected by the appointment of the Sheriff; nor will the appointment be covered by any of the other matters which the White Paper reserves to the Governor's discretion. This being so, the appointment of the Sheriff should be made under the new Constitution by the Governor on the advice of his Council of Ministers.

4. The question then about the appointment of the Sheriff by the Governor on the advice of his Council of Ministers should be provided for in the new Constitution. The Constitution Act will no doubt contain a provision similar to the first provision to Sec.130 of the Government of India. After continuing the validity of the existing laws, letters patent, charters, etc., It appears however that such provisions by itself would not be sufficient for the purpose in view. The Council of Ministers envisaged the White paper scheme is entirely different from the "Governor in Council" of the existing constitution. The Governor in Council functions as single entity under the

present system while in the future constitution; Council of Ministers will be a distant body whose function will be to aid and advise the Governor in whom the entire executive power will in theory be vested. The object might be attained by an express provision in the Constitution Act on the lines of the last paragraph of Sec.130 of the Government of India Act, providing that refer to the letters patent, charters, etc., authority authorized at the time of passing of the Constitution Act administer executive government in any part of British India should, where new authority is substituted by the Constitution Act, be construed as reference to such new authority. Such provision will enable the Governor acting on the advice of the Council of Ministers to perform the functions now assigned to the Governor in Council.

5. I am directed to bring the letter to the notice of the Government of India in connection with the framing of the new Constitution Act, though no doubt it has already been engaging their attention.

I have etc.,

Sd/

22.2.34

Extract taken from G.O.Ms.No.4531, Home, dated 8.12.1948

Pages 1 to 4

Judicial Department

From
(Name) S.A.Shafee Mohamed Sahib Bahadur,
(Designation) Sheriff of Madras
(Station) Madras.

To
The Deputy Secretary to Government,
Firka Development Department,
Fort St.George,
Madras.

D.No.171, dated 5th April 1948.

Sir,

Subject: Khadi and Stores - Purchase from Government Departments.

With reference to G.O.Ms.No.135, dated 15.3.1948 on the subject quoted above, I have the honour to state that I am in complete accord with Government in their decision to introduce khadi uniforms. As far as my office is concerned, no member wears any uniform except peons and the livery for peons is purchased and supplied by the Superintendent of Stationery on an indent sent by the Sheriff. If the orders have been issued to the Superintendent of Stationery, for the supply of khadi, instead of Mill cloth for the peons employed in all Government Departments, it can be applied to Sheriff's Office also.

2. Government are aware that the Sheriff puts on a uniform whenever he attends the Criminal Sessions of High Court or any other ceremonial function. The uniform now worn is after the pattern used by the Sheriff of London and consists of black surge or velvet. If black khadi of the finest variety available, is substituted for

black surge or velvet, it can serve the purpose. I, however, request that Government will be pleased to pass a formal order to this effect for the guidance of the future Sheriffs.

3. As regards the Stores referred to in the G.C.quoted above, my office is rarely in need of the type of Stores mentioned therein. The requirements may therefore be treated as nil.

I have the honour to be,
Sir,
Your most obedient servant,
Sd/xxx
Sheriff of Madras.

Home Department

Lr.Ref.No.69694-E/48-1. Dated 23.8.48

To

The Hon. the C.J.
High Court, Madras.

Hon. Sir,

Sub: Khadi and Stores - Purchase from Government departments.

I am directed to forward a copy of a letter No.D.171, dated 5.4.48 from the Sheriff of Madras on the subject cited and to request that the Hon. the Judges may be so good as to offer their remarks on the suggestions contained in para 2 of the letter. I am to say that the Government do not produce Khadi silk; but if superfine khadi devoid of glitter is considered suitable for the Sheriff's ceremonial dress it can be had.

Yours faithfully,
Sd/

Extract taken from G.O.No.4092, Home dated 14.10.49

Pages 4 to 10 & 14

C.No.93331/E/48 Home Department

4.11.48

SHRIEVALTY - ABOLITION

Extract of H.Pr's minute in file bearing C.No. 67241-E/48 relating to the appointment of a Sheriff for the Madras City for the year 1949.

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x x x x x x

Take extract for urgent action C.S.D. 29.10.48	Whether the post (Sheriff of Madras) is necessary or can be abolished may be examined in the meantime. C.P.R. 29.10

Please see the minute of M.Pr.extracted above.

2. The history of the office of the Sheriff of Madras is as follows:-

The office of the Sheriff in Madras is a very ancient one, and, when first established, the incumbent was to execute and make return of all process of all courts erected by the letters patent of that year, viz., 1726, to wit -

(1) The Mayor's Court, with original civil jurisdiction in Madraspatnam or within any of the subordinate factories;

(2) The Appellate Civil Court of the Governor and Council; and

(3) The Sessions Court of the Governor and the five senior members of Council for the trial of all

offences committed within Madraspatnam. Fort St. George, Fort St.David, Vizagapatnam, the factories on the coast of Sumatra and all other subordinate factories or within ten English miles of any of the same respectively. To these three judicatories, the letters patent of 26 Geo II (A.D.1753) added a fourth, viz., a Court of requests for suits not exceeding twenty rupees; and of this court also the Sheriff was the process server.

At first he was remunerated by his fees; but subsequently a salary was added; and when the present High Court was erected in 1862, he was receiving a salary of Rs.550/- a month, besides as much more in fees; while his Deputy received a further salary of Rs.240/- a month, besides certain small fees. The change then made resulted in a considerable saving; the fees were to go to the Public Treasury, and the Sheriff to receive a salary of Rs.920/- a month, out of which he was to pay his own Deputy, the establishment and office contingencies being borne as theretofore, by Government.

The Sheriff and his establishment stood in a position different from that of other Court officers whose appointment was regulated by Sec.8 of the charter of 1800. The Government appointed the Sheriff, and his officers and his establishment he should himself appoint and answer for, as it was believed he had invariably done, though since June 1863. The pay of the establishment had been drawn through the Registrar of the High Court apparently merely because the Sheriff and his establishment were included in the statement of "Establishment of Ministerial Cfficers, Clerks, and servants, sanctioned for the High Court of Judicature at Madras."

The office of the Sheriff is an English institution imported into the Presidency towns of India and his functions are of a two fold character. He has to perform certain merely formal or ornamental duties such as calling public meetings and attending Sessions and other public ceremonies and he is at the same time the head of the process serving and the execution staff of the High Court. The theoretical responsibility of the Sheriff is believed to be part of the common law borrowed from England.

It was determined in G.O.776, Financial, dated 7.8.1886 to abolish the office of Sheriff as a paid appointment, and a proper process establishment organized under a Nazir or other head, who, would perform the same duties, as the present Deputy Sheriff. It was then suggested to the Finance Commission of 1886.

(1) to abolish by legislation the office of Sheriff and to provide for the work being done by a Government Officer; or

(2) to make the office of Sheriff, honorary, and to provide for the work being done by a Deputy appointed and paid by Government; or

(3) to appoint a paid officer of Government to be Sheriff without extra remuneration.

The Government of India decided that there should be no legislation, that the Sheriff must be a paid officer and that the office should be worked without loss to the Government. The question was under consideration for a long time.

It was considered as early as in 1891 that the Shrievalty was a useless and antiquated sinecure and that the post might be abolished. The Government of India were against the abolition of the post as they considered it contrary to Law. This Government then reiterated its former opinion that the liability to Government Consequent on the abolition of the Sheriff's post and the entrustment of the execution of the High Court processes to the Deputy Registrar of the High Court was not a matter of much moment. That no difficulty on this account was experienced in the mofussil and that there was no reason why it should arise in Madras, that the ceremonial duties of the Sheriff were of no importance and that such of them as might subsist on the abolition of the Shrievalty could very well be performed by the President of the Municipality (Probably corresponding to the present Mayor of Madras) and that the duty of summoning jurors etc., might be tacked on to the Deputy Registrar of the original side of the High Court.

In the past, the abolition of the post of Sheriff seems to have been contemplated only due to the large drain on the general revenues by the maintenance of the Sheriff and his office.

In 1923, in connexion with the reorganization of the Sheriff's office, the then Sheriff of Madras, Sir M.Ct.Mutthiah Chettiar, made certain proposals which were referred to the Judicial Retrenchment Committee which considered among other things, that

the post of Sheriff should be an honorary one, that the entire proceeds from fees, Commission etc., levied by the Sheriff should be credited to the Government and that processes should be served by an establishment attached to the High Court, the present establishment placed under the Sheriff being transferred to the High Court. An extract of the minutes of Sir C.P. Ramaswamy Ayyar is given below for reference.

"The whole basis of the system appertaining to the Shrievalty in Madras requires reconsideration. A prominent and wealthy citizen is appointed Sheriff presumably because the honour of being what is called "the foremost citizen of Madras" for a year affords sufficient incentive to important persons to accept the office. The duties of the Sheriff are confined, beyond the ceremonial appearance during the criminal sessions in court dress, to the service of summons and process issued on the Original Side of the High Court. In reality the work is often done by a delegate called the Deputy Sheriff who corresponds with the Nazir in the Sub Courts and Munsiffs' Courts.

x x x x x

It seems to me that logically the High Court should have fairly complete control over its process service and the only way in which this can be done, if we have to preserve the time honoured official called the Sheriff, is to put him in a class apart and have some other officer who would be distinctly and directly amenable to the High Court though under

the present letters Patent he would also be in theory amenable to the control of the Sheriff . . . .

x x x x

It is no doubt true, as pointed out by the Law Secretary that the letters patent provides for the appointment of a Sheriff and speaks of the Sheriff appointing a sufficient Deputy. It is a matter for investigation how far the power under sec. 129, C.P.C. can be utilized to carry out the above ideas consistently with the letters Patent and also how far the letters Patent need modification if the above idea has to be carried into effect. In any case and whatever may be the difficulties arising out of a contemplated abolition of the Deputy Shrievalty it seems to me there is absolutely no difficulty in our prescribing or altering the fees or limiting them.

C.P.R. 7.8.23

The Government after consultation with the High Court decided that with effect from the 1st September 1924, the post of Sheriff shall be honorary, The monthly contribution of Rs.500/- then made from the Provincial Revenues being discontinued from that date. The Sheriff's establishment including the Deputy Sheriff was made pensionable and provincialized.

Abolition of the Shrievalty would seem to require legislation by the Government of India under the letters Patent of 1865. It will be necessary to

address the Government of India to undertake legislation to abolish the Shrievalty in Madras. The financial effect of the proposal will be nil. Please see also the summarising note upon the abolition of the office of Sheriff at pp.1-2 of G.O.No.3239, Judicial, dated 11.12.1884.

The case may be circulated for orders.

What is the establishment under the Sheriff ? Is there not a Bill introduced by the Bengal Government to abolish the post of Sheriff ?

Sd/xxx
19.1.49

<u>'A' above</u>:

The establishment under the Sheriff is as follows:-

One Deputy Sheriff on Rs.150-200 p.m.
Two U.D.Clerks on Rs.80-110 p.m.
One European bailiff on Rs.110-140 p.m.
Three Indian bailiffs on Rs.45-90 p.m.
Two peons on Rs.16-25 p.m.

<u>'B' above</u>: Submitted that the West Bengal Government recently reorganized the office of the Sheriff of Calcutta and provincialised the establishment under him. They have not abolished the post of Sheriff.

Sd/xxx
23.1.49

From the press cutting at 'A' it would appear that the Provl.Legislature is competent to amend the letters Patent. Before circulating the file for

orders the Legal Department may be requested to advise whether the Government of India should be addressed to abolish the Shrievalty in this Province.

Sd/
27.1.49

Sd/xxx
28.1
Legal.

<u>Legal Department</u>

Legislation is necessary for achieving the object in view. Such legislation will fall mainly under Entry 6 of the Provincial Legislative List, viz "Provincial Public Services." The Provincial Legislature is competent to ~~amend the Letters Patent~~ in so far as the matter concerned falls within the Provincial Legislative field.

2. Although the main purpose of the Legislation is to abolish the office of Sheriff, it may be mentioned that under the Letters Patent the Sheriff is required to exercise certain powers in connexion with the execution and service of writs, summons, rules etc., by virtue of his office. The abolition of the office may require some consequential arrangements to be made for the kind of work carried on by him at present. The exercise of those powers may be said to relate to Entries 2 and 4 of the Concurrent Legislative List, viz., "Criminal Procedure" and "Civil Procedure". Consultation with the Government of India with reference to Secretariat Instruction 33-A seems therefore to be desirable.

Sd/xx
28.2.49

Sd/xxx
28.2.49

Home

This file deals with the Home Department question of abolition of the Shrievalty.

Please see the Legal Department's note on page 9 supra. They opine that, as the powers exercisable by the Sheriff under the letters Patent relate to entries 2 and 4 of the concurrent Legislative List, viz "Criminal Procedure" and "Civil Procedure", consultation with the Government of India with reference to Secretariat instruction 33-A seems desirable. It is also stated that the abolition of the office of Sheriff may necessitate some consequential arrangements for the kind of work done by him at present. Submitted that the High Court may first be consulted on the proposal. A draft letter to the High Court is submitted for approval.

Sd/xxx
7.3.49

The office of the Sheriff is an ancient English institution imported into this country. He performs certain formal or ornamental duties, such as calling public meetings, attending the High Court Sessions in court dress. He is at the same time the head of the process service and executive staff of the High Court. He also prepares every year a list of persons qualified to serve as Jurors and issues summons to those on the list to serve on the Special and common juries. Actually the work is done by the Deputy Sheriff who is a full time servant of Government.

2. As early as 1891, it was considered that the Shrievalty was a useless and antiquated sinecure and that the post might be abolished; but the Government of India was against the proposal. At that time the prime consideration was that the maintenance of the Sheriff and his office was a drain on the general revenues; but since 1924 the post of Sheriff has been made honorary and the process fees levied by the Sheriff is credited to the general revenues Attention is invited ~~to the minutes of~~ Mr.C.P.Ramaswami Ayyar written in this connection and extracted on pp.4-5 ante.

3. If the post of Sheriff is abolished it will be necessary to transfer the establishment under him to the High Court. It may not be possible to effect any retrenchment to the staff. The position therefore is:-

(1) a prominent and wealthy citizen is invariably appointed as Sheriff every year.

(2) he does not cost Government anything

(3) he is merely an ornamental figure who attends the High Court sessions in Court dress, calls for Public meetings and attends other public functions.

(4) the actual serving of process etc is done by his staff which is controlled by the Deputy Sheriff.

4. If it is considered that the post which has been regarded as an useless and antiquated senicure may be abolished, it seem necessary to consult the High Court.

For orders

Sd/xxx
19.3.49

We might formally invite the remarks of the High Court and ask them if they see any difficulties in abolishing the post.

Sd/xx
21.5.49

Please see the orders in circulation at foot of p.9 supra. A draft letter to the High Court is submitted for approval.

Sd/xxx
14.5.49

(Issued as letter/Ref No.93331-E/48-3, Home,dt.14.5.49)

From the High Court, ROC.70/49-Con-B2,
dated 1.9.49.

This file deals with the question of abolition of the Shrievalty. With reference to the orders in circulation on p.9 ante the High Court was consulted and its reply is on pp.3-4 c.f. The High Court has stated that apart from the services rendered by the Sheriff in the civic life of the City and the ceremonial duties he performs in connection with the criminal sessions of the High Court, the Sheriff is charged with two important duties relating to the administration of civil and criminal justice in the City:-

(1) He executes within the city limits all processes, writs and warrants issued by the High Court on the Original Side. He is in custody of all attached property and he also sells them under orders of Court.

For doing these services, he levies certain fees which are credited to Government; and

(2) he prepares lists of persons liable to serve on the jury and summons the requisite number of jurors for each Criminal Session. These points were already noted vide page 8 ante., The High Court says that if the Sheriff's office is to be abolished now another agency has to be substituted for it and that clearly there is no advantage, financial or other, in such a course and that when the proposed abolition of the Original Side of the High Court materialises, the Central Nazarat which will be established and the District Magistrate will respectively take over the above two duties of the Sheriff. It considers that the abolition of the Shrievalty is not called for, at least not until the abolition of the Original Side of the High Court and the consequent re-organization of the City Courts and it has added that the continuance of the Shrievalty is not in any way out of tune with the changed conditions that now prevail in the Country. Legal may see for remarks if any, before the case is circulated for orders.

Sd/xxx
8.9.49

Legal

Legal Department.

In view of the difficulty pointed out by the High Court that, so long as its original jurisdiction lasts, even if the post of Sheriff were to be abolished, it would be necessary to create some other agency to discharge the present functions of the Sheriff, the question of abolishing the post of Sheriff may perhaps be postponed until the abolition of the Original Jurisdiction of the High Court.

Sd/xxx
16.9.49

I agree that, in any case, this question will have to be postponed until the abolition of the Original Jurisdiction of the High Court materialises, the office is a picturesque and interesting survival from a very remote time, and the question of continuing the office in its ceremonial aspects, on an honorary basis will no doubt be duly, considered at the proper time. The High Court's view which is against the abolition of the office will have to be given some weight at that time.

Sd/xxx
16.9.49.

Home Department

This file deals with the question of abolition of the Shrievalty. Apart from the services rendered by the Sheriff in the civic life of the city and the ceremonial duties he performs in connection with the

criminal sessions of the High Court, the Sheriff is charged with the following two duties relating to the administration of civil and criminal justic in the city:-

(1) He executes within the City limits all processes, writs and warrants issued by the High Court on the Original Side. He is in custody of all attached property and he also sells them under orders of court. For doing these services, he levies certain fees which are credited to Government and

2) he prepares lists of persons liable to serve on the jury and summons the requisite number of jurors for each Criminal Session.

For the discharge of these duties, the Sheriff is given an establishment consisting of a Deputy Sheriff, two upper division clerks, 4 bailiffs and two peons. He is not paid any allowance, With reference to the orders in circulation on p.9 above, the High Court was consulted about the abolition of the post and also whether any difficulties would arise in abolishing the post. The High Court states that so long as the duties referred to at 'S' above have to be discharged, the Sheriff's office should continue, that if it is to be abolished now,

another agency has to be substituted for it and that there is no advantage, financial or other, in such a course. The Hon' the Judges have stated that when the proposed abolition of the original Side of the High Court materialises, the Central Nazarat which will be established and the District Magistrate will respectively take over the above two duties of the Sheriff. They therefore, consider that the abolition of the Shrievalty is not called for, at least not until the abolition of the Original Side of the High Court and the consequent reorganisation of the City Courts. They have added that the continuance of the Shrievalty is not in any way out of tune with the changed conditions that now prevail in the country. The Legal Department agree with the High Court that the Question may be postponed until the abolition of the Original Side of the High Court materialises. The Legal Secretary has stated that the office is a picturesque and interesting survival from a very remote time, that the question of continuing the office in its ceremonial aspects on an honorary basis will no doubt be duly considered at the proper time and that the High Court's view which is against the abolition of the office, will have to be given some weight at that time.

2. As regards the abolition of the Original Side of the High Court, the remarks of the High Court

have been called for. The High Court has sent as interim reply stating that as the subject matter of the Bill ~~is a very important~~ one requiring the full consideration of the Hon'ble the Judges, it will be possible to forward their remarks on the Bill only towards the end of October 1949. It is proposed to examine the question about the abolition of the Original Side without waiting for the High Court's reply.

~~3. The Legal Department have stated that~~ legislation is necessary for abolishing the post of Sheriff, that such legislation will fall mainly under entry 6 of the Provincial Legislative List, viz., "Provincial Public Services" and that as the powers exercisable by the Sheriff under the Letters Patent relate to Entries 2 and 4 of the Concurrent Legislative List, viz., "Criminal Procedure" and "Civil Procedure", consultation with the Government of India with reference to Sectt. Instruction 33-A seems desirable.

4. The case may be circulated for orders whether the question of abolition of the Shrievalty may be takes up after a decision is arrived at in regard to the abolition of the Original Side of the High Court.

Sd/xxx
24.9.49

The papers may be recorded now after making a call book entry against 1.11.50, with reference to para 4 above.

Sd/xxx

13.10.

Home

G.O.Ms.No.4092, dated 14.10.49

Shrievalty - Abolition of - Question deferred - Papers - Recorded.

Page No.14

Home (Cts.I) Department

Extract from the Call Book of Courts I Section.

Sl. No.	Date of entry in this register	Subject	Old C.No.	No. & date of G.O. authorising the entry	Date when further action is to be taken
1.		Shrievalty Abolition question deferred	161455/50	G.O.Ms. No.4092, Home, dated 14.10.49	1.7.52

The above are entries taken from p.20 nf.of G.O. No.4092, Home, dated 14.10.49 (A call book entry which was intended to be made then appears to have been left out by oversight. This may kindly be condoned)

2. At the instance of the High Court it was decided in G.O.No.4092, Home, dated 14.10.49 that the question of abolition of the Shrievalty should be deferred till after a decision is arrived at in regard to the abolition of the original side of the High Court. The abolition of the Original Side of the High Court is still under the consideration of the Government of India. Therefore it is submitted that a fresh Call Book entry may be made against 1.4.1953 for this purpose.

Sd/xxxx
4.12.52

Sd/xxx
5.12.52

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*

En/6.4.83.

Pages XIV + 170
19/1/84

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